

For Better or for Worse: Employment Relationship Problems under the Employment Relations Act 2000

Bernard Walker

2009

Thesis submitted to the University of Canterbury in fulfilment of the requirements for the degree of Doctor of Philosophy (Ph.D.)

Table of Contents

Abstract.....	1
1.0 Chapter One	2
1.1 Introduction	2
1.2 The New Zealand System	6
Chapter Two: Literature Review	16
2.1 Individual-level employee disputes.....	16
2.2 What is known – existing research.....	23
2.3 Overall summary and directions for research.....	55
Chapter Three: Methodology.....	57
3.1 Introduction and Research Question.....	57
3.2 Research Design	58
Chapter Four: Data Analysis	76
4.1 Compatibility with the Research Strategy.....	76
4.2 Analytic Methods	81
Chapter Five: Analysis – Dispute Type	95
5.2 Part One: An Overview of the Phenomena	96
5.3 The Nature of the Dispute - Dispute Type.....	101
5.4 The enigmatic case of Waste	114
5.5 Summary	115
5.6 Associated aspects: Collective / Individual, and the Issues at Stake.....	117
Chapter Six: Perspectives of the Main Parties - Part One: Employees	119
6.2 The Employee Perspective.....	122
6.3 Variables influencing relationship decisions.....	127
6.4 Assessing Situations: the Overall Decision-Making Process	133
6.5 Broader Employee Orientations and the Issues in Contention	136
6.6 Core construct: Power	142
6.7 Summary	145
Chapter Seven: Perspectives of the Main Parties - Part Two: Employers	148
7.2 The Employer Decision Making Process.....	152
7.3 Decision One: Continuing or Terminating the Employment Relationship	153
7.4 Employer Decision Making Variables	161
7.5 Summary	168
7.6 Decision Two: The Employer's Decision to Actively Contest an Issue	169
7.7 Decision Making Orientations of Managers.....	184
7.8 Higher-level variables - Power and Justice	189
7.9 Summary	193
Chapter 8: Power.....	195
8.1 Multiple parties in interaction	195
8.2 Core Construct (2): Power.....	202
8.3 Power in the Literature	212

Chapter 9: Interaction Type	228
9.2 Core construct (3): Interaction Type	228
9.3 Variables influencing the Dispute Approach.....	235
9.4 The approaches, and interaction types, which result	261
9.5 Higher level variable - Power.....	263
9.6 Comparison with the model of Kim et al. (2005)	263
9.7 Conclusion	266
Chapter 10: Interaction Sequences	268
10.2 Major Category (1): Non-Mutual Initial Approaches Leading to Overall Contending	268
10.3 Major Category (2): Mutual Problem-Solving	280
10.4 Distinguishing between concern for relationships (Concern) and dispute handling competency (Competency)	288
10.5 Summary	289
Chapter 11: The Proposed Model	294
11.1 Core Construct (1): Dispute Type.....	295
11.2 Core Construct (2): Power.....	299
11.3 Core Construct (3): Interaction Type	303
11.4 The Combined Effect of the three Core Constructs	306
11.5 Creating a New Typology of Disputes	307
11.6 Predictive Power of the Model.....	313
11.7 Links with the Existing Literature	313
11.8 Implications for Policy and Practice.....	321
References	329

List of Figures and Tables

Figure 1: The New Zealand employment institutions	11
Figure 2: The typical dispute sequence.....	100
Figure 3: Outcomes from the disputes	100
Figure 4: The relationships between Dispute Type, Extent and Relationship Change	107
Figure 5: The analytic sequence	122
Figure 6: Employee Decision Making Process – Decision to remain and contest an issue.....	146
Figure 7: The case of Waste, in terms of employer’s decision processes	157
Figure 8: Proposed model of Employer Decision Making Processes	170
Figure 9: A model of Power in dispute sequences	209
Figure 10: A revised model of Power in dispute sequences	221
Figure 11: Variables influencing a party’s dispute handling approach, and consequent Interaction	229
Figure 12: Sequence of escalation in the case of Gamma.....	232
Figure 13: The Dual Concern Model (Pruitt & Kim 2004, p.41).....	234
Figure 14: The Dispute Sequence in Waste.....	259
Figure 15: Dispute sequence for Cases Movers, Terminus	269
Figure 16: Dispute sequence for Cases Copier and Retail	275
Figure 17: Dispute sequence for Cases Fleet, Blubank	281
Figure 18: Core constructs	294
Table 1: Main areas of individual-level employment dispute (grievance) research	24
Table 2: Grievance Research - Summary	27
Table 3: Exemplars of inductive case study research.....	84
Table 4: Occupational and industry groups of the participating employees and organisations	97
Table 5: Outline of the disputed issues from the perspective of employee and employer.....	98
Table 6: Tenure and Relationship Change.....	103
Table 7: Dispute Type, Extent, Relationship Change and Final Outcome	116
Table 8: The employee dispute journeys	124
Table 9: Variables affecting employees’ motivation to take dispute-action – Justice	140
Table 10: Managers involved at main stages of dispute process	149
Table 11: Managers’ Decision making – Issues and criteria	162
Table 12: Predominant orientation of each organisation.....	188
Table 13: Higher level variables in employer decisions	190
Table 14: Representation and Internal Third Parties by Case	196
Table 15: Problem Resolution Sequences Both Parties	198
Table 16: Issues under contention in the cases	237
Table 17: Employee and Representative Orientation and Dispute Strategy.....	252
Table 18: Employer and Representative Orientation and Dispute Strategy.....	253
Table 19: Overall dispute handling approaches for parties	262
Table 20: Approach-related variables - Movers, Terminus	270
Table 21: Approach-related variables - Copier and Retail	276
Table 22: Approach-related variables - Fleet, Blubank	282
Table 23: Comparison of propositions and findings for the dimensions.....	290
Table 24: Variables associated with the three main approaches.....	292
Table 25: Interactions of approaches forming overall Dispute Interactions	293
Table 26: Core constructs by cases	297
Table 27: Proposed main types of dispute sequences in terms of the core constructs	308

Abstract

The existing grievance literature has tended to focus on employee decisions concerning dispute action in light of Hirschman's (1970) 'loyalty voice exit' (LVE) model. The present research sought to take an alternative approach by exploring the processes associated with grievances and disputes, through following a series of cases covering both employer and employee perspectives of the same dispute. The cases involved individual-level disputes where the parties were still in an ongoing employment relationship at the time that they accessed the mediation services of the government employment agency. The research process involved observing the mediation sessions and then conducting follow-up interviews with all the individuals associated with each case, including the employer and employee, along with union advocates, legal representatives, and mediators resulting in a total of 70 interviews. The findings covered a range of areas which combined to form a new model which reframed the dispute process as a series of choices, events and stages, rather than the single-choice perspective of much existing literature.

The model centres upon three core constructs. The first of these is the Dispute Type, which refers to the nature or substance of the dispute, and identifies three distinct types each of which have their own dynamics and progression, with a significant predetermining effect on the course of employment disputes. The second construct, Power, concerns the relative power of the parties, with a party's overall power comprising of individual, organisational, and external levels. The series of dispute actions were also found to be driven by power-related dynamics, and this produces a model that both builds upon and also extends, existing models of power in the negotiation literature (Lawler, 1992; Kim et al., 2005). Finally the third construct, Interaction Type, draws on Pruitt and Kim's (2004) dual concern model, to explore the combined interaction of the strategies and tactics utilised by each side in a dispute sequence. Extending this model into employment dispute situations, the research identifies dynamics which can lead to major escalation of disputes, precluding opportunities for resolution.

The research has significant implications for organisations in their management of individual-level employee disputes, as well as for parties such unions and other representatives who are reframed as agents with the potential to increase or reduce the power of parties.

Keywords: employment dispute resolution, grievances, New Zealand, Employment Relations Act 2000, employment relationship problems, conflict management

1.0 Chapter One

1.1 Introduction

1.1.1 The Emergence of the Research Topic

This research project concerns the question of “what influences the course of an individual-level employment relationship problem?” This final question actually emerged at the end of a more lengthy process, and so, at the start of such a large work as this, it is perhaps appropriate to commence with a more personalised introduction, explaining a little of that emergence and the development of the project. The ‘birth’ of this research can really be traced back to a conversation with the HR Manager of a large government organisation. I had originally been contemplating a much more deductive style of research, based around the specific topic of the socialisation of new staff, and hoped to use his organisation as one research site. During the discussion, the HR Manager patiently tolerated my interest in staff socialisation, then, during a pause, mentioned a topic much closer to his own heart; the ongoing number of personal grievance cases in the organisation, and his own sense of being perplexed and somewhat lost as to how to deal with them. The problem was not a lack of legal knowledge, as this person was a qualified barrister and solicitor. Instead the problem came from the difficulty of trying to understand the mystery of why staff were taking grievance action, and most importantly, how to best deal with this. Grievances were having a major impact on the HR team, taking up a disproportionate amount of their time, and preventing them from even planning other, more proactive HR initiatives that they wanted to implement. Over subsequent months, at various forums for other senior HR Managers, the same problem emerged spontaneously from practitioners. This certainly seemed an issue of some contemporary relevance, and as I explored further, the paucity of relevant, local research became increasingly evident.

One of the major challenges was the question of identifying a relevant stream of literature to use as a starting point. Almost every jurisdiction has its own slightly unique system for dealing with employment-protection law and personal grievances. Although sharing broader, common legal principles, the actual systems, as well as the broader social, economic and political context surrounding them, were significantly different from country to country. The New Zealand situation, with its own idiosyncratic systems and rather unique local context, defied easy comparison. On one hand, some jurisdictions shared a degree of a structural similarity, at least in terms of the historical background. Yet, the task of making comparisons across multiple systems

was, as a senior colleague who specialises in this field pointed out, virtually a doctoral dissertation in itself, which would leave no time for real field work. Furthermore, and perhaps more importantly, my search was for the theoretical, conceptual underpinnings, rather than descriptive material regarding the functioning of a specific system or institutional framework. That is, my focus was not on *what* happened, but rather *why* it happened. Most jurisdictions, including those with a common law heritage like New Zealand, tended to have a readily available supply of governmental reports and academic papers focusing on those system-related or descriptive topics, but considerably less in terms of the theoretical framework and developments that I was seeking.

After extensive searches of the international databases, books and articles, it became increasingly apparent that there was a theoretical stream associated with grievances which potentially had some relevance to my own research. This English-speaking part of the international literature happened to be largely from North American settings, but it contained the promise of models, linked to empirical research in both fieldwork and experiments, which could provide background for gaining some insight into the relatively unexplored field of grievance behaviour in New Zealand. At face value, some readers may query why less emphasis is placed on comparisons with jurisdictions such as the United Kingdom and Australia, which are traditionally associated with New Zealand. In fact, those comparisons may now be more apparent than real, given the radical changes that have occurred for example, in the Australian system in recent years. The choice of focus for the literature however, was very purposefully made after considerable deliberation, seeking to locate a specific theoretical framework in order to provide the most conceptually relevant background for the theory-building, case study approach of this present research.

The aim of the present research was to create some preliminary insight into relatively unexplored question of, what drives grievance behaviour; why do grievances proceed in the manner that they do, in a New Zealand setting. The research question was therefore framed broadly along the lines of "what influences the course of an individual-level employment relationship problem", to use the peculiarly New Zealand terminology applying to this area, referring specifically to the 'individual-level' problems that are otherwise known as 'grievances'. As it turned out, implicit in this topic, for both the research and the participants, became an increasing focus on the decision-making of the parties to a grievance, as participants tended to view this as the main explanatory factor behind the behaviours that were observed.

The intended output of the research was to produce theoretical explanations which would have both practical relevance for those working in the field of HR and dealing with grievances on a day-to-day basis, as well as for academics and others seeking to develop theory in this area, linking the field of grievances with theoretical disciplines and frameworks. In reality, it turned out that the field is perhaps even more immense than initially envisaged. One of the key articles in the literature proved to be a paper from Bemmels and Foley (1996) who proposed that the complexity of the field is such that a detailed, overall model of the total grievance process is not practical. Instead, a variety of social science theories exist which are potentially applicable. The crucial point however, is that different theories apply for each of the stages; therefore a very narrow, stage-specific approach is required when seeking to link a specific theoretical model to grievance behaviour¹. This endorsed and affirmed what I was already discovering independently, regarding both the dynamics of disputes and the existing research in this area. There were two key implications from this. The first was that in a relatively unexplored setting such as the New Zealand environment, the focus should be on creating a broad overview, at an exploratory level, as an essential initial stage towards developing theory. An inductive approach would be necessary for those reasons alone. In addition however, it would not be practical to enter the field from a deductive approach when any specific theoretical approach would potentially only be relevant to a single stage of the grievance process. While these issues will be discussed further in the methodology section, at this stage it is important to foreshadow their importance as guiding principles which significantly influenced the shape of the research process.

During the course of the research, several government-sponsored reports were produced from market research, consultancy agencies in New Zealand. This provided background snapshots drawn from techniques such as surveys and focus groups, using aggregate groups of employers and employees. These were not linked to specific theoretical background, but were primarily intended to inform policymakers and those administering systems. There was therefore, still an unmet need for the theoretically-based research which constituted the primary focus of the current study. One very distinctive feature associated with the case study approach utilised in this present research, was that it adopted the very different technique of following through the progression of identifiable, separate cases, accessing the perspectives of the individuals associated with a specific case, in order to gain greater insight into the dynamics of grievances.

¹ A search of databases did not locate subsequent articles challenging Bemmels and Foley's assertions, and instead numerous articles cited their work, implicitly accepting the veracity of their propositions.

1.1.2 The process of researching the topic

This was hardly a dispassionate, unemotional area of research. For employees, the process of going through a dispute was frequently highly stressful with major effects on their life. During the interviews, some employees wept, and others were very tense, as they shared their account of what had often been a rugged journey for them. For many employees, their jobs had been a positive and important part of their lives and so the unplanned loss of those jobs constituted a large, and often traumatic, change for them. As a researcher, the experience of interviewing these people was quite significant. It is difficult to convey the full extent of their experiences in one-dimensional transcripts. While the analysis uses constructs such as "power", the full significance of these was much more evident and tangible when dealing with both employers and employees first-hand. As a person who had originally trained in quantitative methods, the very direct nature of this type case-based, qualitative research was a new and highly educational experience for me. I remain immensely grateful to the many individuals, both employers and employees, who allowed me to attend their mediation sessions, and subsequently gave of their time, sharing so openly about their experiences in these cases.

The process of obtaining access to gather data proved to be a very complicated and much more lengthy matter than I had ever anticipated. The whole topic of employment relationship problems, disputes and grievances represents a very sensitive and contentious area. Individuals and organisations are often very reluctant to allow outsiders, and particularly a researcher who is not known to them, access to what they perceive as very private matters. Accompanying this is the carefully guarded confidentiality of mediation with the surrounding legal protections. In terms of the overall research process, this phase was particularly slow as it involved numerous unsuccessful attempts to find opportunities for access and data gathering. It was only the strong interest in the topic from colleagues in the HR profession which made me persist despite these obstacles. The Department of Labour, as providers of mediation services, were naturally very cautious about any research which could be perceived as jeopardising the confidentiality of their services. It was eventually through the assistance of the Department however, with the generous involvement of front-line staff from throughout the country, that this research was able to proceed. The fact that this is private, rather than government-sponsored research, involving participants attending mediation, has made it rather unique.

1.1.3 The format of the report

A brief overview of the New Zealand system is supplied in Part 1.2 of this chapter, in order to give some background to the context and the system within which the employment relationship problems occurred. Following this, the second chapter addresses the literature, providing an overview of the relevant international literature associated with disputes and grievances. The third and fourth chapters then move to methodological aspects, covering the research methodology, as well as data gathering and analysis. From Chapter 5, the focus moves to analysis, commencing with an overview of the phenomena and the dispute sequences. Chapters 6 and 7 consider the separate perspectives of the two main parties, employers and employees, developing models for the functioning of each party. From Chapter 8 the attention shifts to the application of these in the dynamic interaction of the parties, developing the core constructs and foundations of a model in this chapter and Chapter 9. The actual dispute sequence of each case is then analysed in terms of these constructs in Chapter 10. Finally, in Chapter 11 the full model is developed.

1.2 The New Zealand System

1.2.1 Background: The Development of the System

Workplace conflict is an ever present part of organisational life and attempts to control such conflict have occupied much of the history of New Zealand employment relations. In earlier times, collective industrial action served as the focus of legislation and institutional structures; however in recent decades individual-level disputes have expanded to become a prominent aspect, with some writers suggesting that grievance claims are now a more prevalent indicator of overt conflict than collective action (Knight and Latreille, 2000).

Initially, there were few protections in the area of individual employment rights and theoretically, employers were able to practise dismissal-at-will. During the 1960s and 70s however, unions increasingly resorted to industrial action in order to protest dismissals that were perceived as unjust, and the resulting high level of work stoppages led to the establishment of statutory personal grievance rights in the Industrial Relations Act 1973, which forms the basis of current grievance provisions (Hughes et al., 1996).

Throughout the following decades New Zealand underwent significant changes, moving rapidly

from a highly regulated economy to a deregulated free-market model, and this was accompanied by dramatic labour market and employment relations reform. The traditional, centralised, collectivist approach with high levels of state intervention that had characterised the country's employment relations system for almost a century, was replaced by a new model which emphasised enterprise-level controls, direct bargaining, and employment relationships that were more individualised and contractually based. These changes were mirrored in the dispute resolution procedures which also shifted from a centralised system to the level of the workplace, with parties becoming responsible for resolving their own differences. This created a significantly new context for contemporary employment relations and dispute resolution.

At the time of its establishment, the grievance system had initially been strongly union-based, with unions holding the sole authority to pursue cases and effectively being able to control access to the procedures. The introduction of the Employment Contracts Act 1991 (ECA 1991) radically changed employment relations, and in the area of grievances this Act extended the regulatory framework in a number of ways. The union monopoly was removed so that employees gained direct access to grievance provisions, and at the same time access was expanded to cover all workers including those who were not union members.

While the Employment Contracts Act sought to create a system where matters could be remedied promptly and close to the point of origin, in practice, the number of personal grievance claims grew markedly, increasing on average by around 37% per year, with the total number of claims more than doubling in the period from 1992-1998. As a consequence, the 1990s became known as the "era of the personal grievance". Cullinane and Donald (2000) attributed this phenomenon to nature of the Employment Contracts Act itself, which had transformed employment relations, diminishing the role of unions, individualising the employment relationship, and shifting employment contracts towards a much more legalistic and contractual approach.

The Employment Contracts Act established an Employment Tribunal which provided mediation and adjudication services for resolving personal grievances. The vast majority of cases were dealt with through mediation. This largely took the form of what was termed "litigation risk analysis", where each of the parties presented their submissions to the Tribunal member, who would respond by advising each side about the relative merits of its case and possible outcomes in adjudication. The content of the Tribunal's work was heavily focused on disputed dismissals where Tribunal members served as "deal makers engineering agreements on exit packages for long dead employment relationships" (McAndrew et al., 2004, p.102).

While the Employment Tribunal was intended to be a "low level, informal" Tribunal to provide "speedy, fair, and just resolution of differences" (s76(c) ECA91), it was not entirely successful in achieving these aims. Two of the main criticisms related to the time delays in dealing with cases, along with increasing legalism and formality of the procedures. The nature of adjudication proceedings became increasingly adversarial, partly due to the style of lawyers and other professional representatives who had taken the place of unions, while legal appeals forced the Tribunal's procedures to become more formal, lengthy and detailed. Associated with this was the issue of costs, and particularly the fees charged by professional representatives acting for the parties during the lengthy processes (McAndrew et al., 2004)

In sum, the changes brought by the Employment Contracts Act are particularly significant because they had a major influence in establishing the current framework and context for dispute and grievance activities in New Zealand. The Act was repealed and replaced by the Employment Relations Act in 2000, however much of the framework, and perhaps also many of the dynamics, continued into the current era.

1.2.2 The Employment Relations Act 2000

The Employment Relations Act 2000 (ERA 2000) represented a turning point in New Zealand employment legislation. The Act was intended to reverse the radical free-market approaches of the Employment Contracts Act, and replace these with a model that was more consistent with traditional employment relations (Wilson, 2004). The legislation returned to a more collectivist approach, with a primary objective being "to build productive employment relationships through the promotion of good faith" (s3(a)). A key assumption underlying the Act was that the employment relationship "is a human relationship... not simply a contractual, economic exchange" (Employment Relations Bill, Explanatory Note, 1).

In terms of dispute resolution, the Act's foremost objectives included "promoting mediation as the primary problem-solving mechanism" (s3 (a)(v)) so as to prevent and resolve employment relationship breakdowns (Department of Labour, 2002c). This reflected a new philosophy which emphasised the maintenance and preservation of employment relationships (Explanatory Note) and this was to be implemented through a proactive approach which sought early intervention in order to repair problems and salvage employment relationships, so as to reduce the numbers of disputes and terminations (Department of Labour, 2002a, b)

Although the ERA 2000 continued the grievance and dispute framework of the Employment Contracts Act, it sought to remedy the two main criticisms of the Employment Tribunal, by aiming to significantly reduce both the time delays for dealing with cases, as well as the legalism and formality of processes. The new Act proposed to resolve employment problems quickly, without the need for formal judicial intervention, and as with the previous legislation it emphasised that employment problems should be resolved promptly by the parties themselves (s143(b)), before any third party interventions were required (Secretary of Cabinet, 2003).

To achieve these aims, new mediation services were intended to be broader and less formal, providing a variety of services which ranged from information provision through to "services that assist the smooth conduct of employment relationships...and other services...that assist persons to resolve, promptly and effectively, their employment relationship problems (s144(2)(c)(d)). These services were separated from the adjudication functions and mediation was generally framed as the preferred option for resolving disputes.

The Act provides creates several classifications for the differing types of disagreement that can occur.

- *Employment Relationship Problems*: Firstly, the Act uses the relatively broad term "employment relationship problem" which is defined non-exhaustively to include "a personal grievance, a dispute, and any other problem relating to or arising out of an employment relationship" (s5).
- *Disputes*: While in everyday language, the term "dispute" can refer to a wide variety of types of disagreements, the Act utilises a specific, narrow technical meaning of the term "dispute", defining it as "the interpretation, application, or operation of an employment agreement" (s5, s129).
- *Personal Grievances*: A personal grievance is a grievance that an employee may have against his or her employer (or former employer), in relation to six specified grounds; (a) unjustifiable dismissal, (b) unjustifiable action by the employer to the employee's disadvantage, (c) discrimination, (d) sexual harassment, (e) racial harassment, (f) duress connected with membership or non-membership of a union (s 103(3)).

The main avenue of assistance for employment relationship issues under the Employment Relations Act was intended to be through the new mediation services introduced by the Act. The

role of mediation services was very broad and this assistance was available to all employment relationships with problems that they encountered, even situations that did not constitute an "employment relationship" in the legal sense. An early hope was that, under this system, parties experiencing any employment relationship problem would be able to access mediation assistance at an early stage, and deal with the issue before it escalated to become a more formal issue such as a personal grievance. Mediation was intended to be "free, simple, effective and fair" (Wilson, 2002), serving as the primary problem-solving mechanism, with parties being expected to use these mediation services as their first port of call. If one or more parties attempt to bypass this stage, they can be directed back to mediation by the Authority.

The Employment Relations Authority was also established, adopting a new "investigative" approach whereby proceedings were directed by the Authority Member, rather than the traditional adversarial model of "advocate-directed case presentation" (McAndrew, 2001, p.341). The Authority has a role of resolving employment relationship problems by establishing the facts and making a determination according to the substantial merits of the case, without regard to technicalities (s157). If parties have sought the assistance of mediation services but have not been successful in resolving their problem, either party may file a "statement of problem", seeking the assistance of the Authority.

The Employment Court provides a higher level body where parties who have gone before the Authority, yet are not satisfied with the determination may have received, may seek leave to have the case heard in full, in the Employment Court. Technically, the Court and the Authority are separate institutions, rather than in a hierarchical relationship, and so there is no right to "appeal" determinations of the Authority to the Court, although there is a right to ask the court to rehear a matter that has been previously determined by the Authority.

The institutions are shown in Figure 1



Figure 1: The New Zealand employment institutions

1.2.3 New Zealand research

New Zealand research into the resolution of employment relationship problems is rather limited. The longstanding Justice in Employment project (McAndrew, 2001, 2000, 1999) focuses on the specialist legal institutions, analysing decisions from the 1990s onwards from the Employment Court, the Employment Tribunal, and now the Employment Relations Authority. This provides information regarding the higher levels of the grievance processes.

Around the time of the introduction of the Employment Relations Act, a series of reports commissioned by the Department of Labour provided an interesting snapshot of employment dispute resolution during that period. In these studies, the focus was on disputes, where a "dispute" was typically defined as; "a situation in which an employment 'problem' is not able to be resolved by discussion with the immediate manager or supervisor and then a third party is brought in to help resolve the problem" (Department of Labour, 2002d, p. 19).

A confounding factor in several of these studies however, is that the "disputes" category appears to also include employer-initiated standard procedures for investigating matters such as misconduct or disciplinary issues. These types of procedures would normally be quite distinct and separate from a grievance which is an employee's complaint against an action by the employer. For example, one report (Department of Labour, 2000) stated that, with regard to methods for "resolving grievance disputes internally", "for about half of all enterprises, a verbal or written warning was either always or usually discussed/ issued" (p.56). Similarly, a second (Department of Labour, 2002d) report referred to issues such as "it's all about documentation and dotting the i's and crossing the t's so that we can actually go back and say "no we've actually done the process correctly" and we've given her an opportunity to screw up again but that's fine." (p.79)

A key element of enterprise-based dispute resolution was the requirement that employment agreements contain guidance for employees regarding the processes for dealing with either employment relationship problems, or grievances. The Employment Contracts Act required that all employment contracts contain an effective procedure for the settlement of any personal grievances, or if that did not exist, then by default a standard procedure set out in the Act was deemed to apply. The Employment Relations Act amended this by simply requiring that employment agreements contain a "plain language explanation" of the services for resolving employment relationship problems.

On one hand, surveys painted a hopeful picture of dispute resolution within organizations, with an estimated 76% of employees reporting they were confident that there were suitable resolution procedures in place (Department of Labour, 2000), and a similar proportion (78%) reporting they felt it was "easy" or "very easy" to discuss employment relationship issues with their employer (Department of Labour, 2003b). From the employer's point of view though, one survey reported that only 42% of enterprises actually had formally documented procedures for resolving disputes (Department of Labour, 2000). The experience of employees who actually went down a path of attempting to resolve a dispute was also rather different. Findings suggested that, even among employees who had been involved in employment disputes, there was typically "only a vague awareness... that there was some clause involving disputes resolutions in employment agreements" (Department of Labour, 2002d, p.59). Furthermore, in two of the surveys (Department of Labour, 2000, 2003b) significant proportions (57% and 65% respectively) of those employees were not satisfied with the process, or actions taken by their employer to resolve the dispute.

The reports suggested that there was not a lot of evidence of successful dispute resolution at company level, with one survey of employers suggesting that only around one-in-five disputes was successfully resolved with the employee remaining in their job (Department of Labour, 2000). From the employees' perspective leaving the job was often seen as an almost-inevitable consequence of being involved in a dispute (Department of Labour, 2002d).

Responses from employers suggested that where there was an ongoing employment relationship, employers were reluctant to use third parties or outsiders, (Department of Labour, 2003b), including early intervention mediation. Employers preferred to deal with disputes in-house, believing that external mediation was likely to result in a damaged relationship between the employer and employee", and as a consequence mediation was seen as a "road of last resort", (Department of Labour, 2002d, p.7).

At the level of the specialist institutions, despite the new proactive direction proposed for mediation services, only a small proportion of cases involved requests for assistance in repairing relationships. Official statistics for the first two years of the new Act confirmed that the mediation caseload was still dominated by unjustified dismissal claims and accompanying "terminal" types of issues such as recovery of wages and redundancy. Mediation was frequently seen as simply a mechanism for setting an "exit price", and most parties turned to the Mediation Service for help only when they had "effectively given up on their relationship" (McAndrew et al., 2004, p.116, Department of Labour, 2002b, 2003a). The parties attending mediation were not representing themselves but were continuing to use lawyers and other hired advocates². From a more positive angle though, settlement rates and user satisfaction levels were high, and the faster response times were commended by survey respondents.

An unpublished thesis by Morton (2003 cited in McAndrew et al., 2004) investigated whether the new institutions under the ER Act did actually reduce legalism and formality. The findings confirmed that the changes in the mediation process, and the caseload profile, had generally been much less than were intended. In terms of mediation styles, Morton's results repeated those of earlier reports which suggested that parties, and particularly lawyers, were often less than happy with a non-directive approach from mediators, preferring the traditional litigation risk analysis style (McAndrew et al., 2004, Department of Labour, 2002d).

² Estimates suggested that representatives were present for 80% of mediations for individual problems (Cabinet Economic Development Committee, EDC (03) 45, 31 March 2003, Appendix: Problem Resolution in the Employment Relations Act

1.2.4 What makes the New Zealand situation unique

The New Zealand employment relations framework has many unique aspects. Since the late 19th century, the country has moved in its own independent direction, creating a relatively idiosyncratic model of employment relations with its own legal framework and institutional structures. The statutory framework that has evolved contains many factors that are locally based and not replicated in other jurisdictions. The Employment Tribunal for example, was recognised as a "relatively rare species among the industrial and employment tribunals throughout the world" (McAndrew, 2000), while the all-pervasive "good faith" obligation of the Employment Relations Act had an "indigenous" formulation, and was intended to create "a regime that is relevant to New Zealand's circumstances that are different from those in other jurisdictions" *NZ Amalgamated Engineering etc Union Inc v Carter Holt Harvey Ltd*, [2002] 1 ERNZ 597.

The high level of statutory control in New Zealand employment relations is also quite distinctive, and stands in marked contrast to the system present in other jurisdictions, where federal and state laws may generally be confined to providing controls for bargaining over the terms and conditions of employment. In those situations, issues such as discipline, dismissal, and grievance procedures may be governed primarily by the terms of local employment contracts. Even with countries' whose frameworks may have a greater degree of affinity with the New Zealand system, court decisions have clarified that these still contain many important areas of difference, especially in areas of grievances and disputes (*Auckland City Council v Hennessy* [1982] ACJ699).

The New Zealand social, economic and cultural environment also has many features that are distinctive. Factors such as the strong influence of agriculture and the predominance of small to medium-sized businesses create a specifically New Zealand economy, while the considerable influence of Maori and other ethnic groups further contribute to shaping a environment with comparatively unique societal and cultural norms (Rasmussen et al., 2006).

In addition, there has been considerable local development of social policy, especially in areas such as the availability of social support for unemployment and minimum wage strategies, which create important contextual factors for employment dispute processes. Accompanying this, at a political level, the country's political system also permitted change processes that have been more rapid and abrupt than occurs in many other countries.

Together, a host of factors combine to create a very specific setting which defies ready comparison with other jurisdictions. Although the core principles of employment protection may be shared to some degree across countries, the context and the ways in which these processes are implemented are idiosyncratic and unique.

Chapter Two: Literature Review

2.1 Individual-level employee disputes

2.1.1 Introduction

It is a virtual truism that conflict is inherent in the employment relationship (Petersen and Lewin, 2000), to the point that conflict between employees and employers formed a central theme of twentieth century employment relations. In earlier decades this conflict took the form of collective dealings between groups of workers and management, creating the focus of much of the earlier research. Throughout later decades however, attention shifted to conflict at the individual level, in the form of disputes between an individual employee and that person's employing company. This type of conflict, which some refer to as "individual employment disputes"³, grew in significance to the point that some writers now suggest that these are a more prevalent indicator of overt conflict than collective industrial action (Knight and Latreille, 2000, p.533).

In response to the ongoing costs and disruption from industrial action, employers and governments moved to channel employment relationship conflict into more controlled, institutional forums (Lewin, 2005, Lipsky et al., 2003). Dispute resolution processes became an increasingly significant part of contemporary employment relations, with most Western countries establishing mechanisms to regulate collective bargaining, and to allow employees to challenge the actions of employers. A variety of terms are used to describe the official processes by which employees express their disagreement, however Feuille and Delaney (1992) suggest that the terms "grievance", "appeal", and "complaint procedures" can to some extent be used interchangeably, for they "all refer to the same phenomenon, namely, a mechanism for aggrieved employees to protest and seek redress from some aspect of their employment situation" (p.189). In the North American terminology for example, a "*grievance*" is "an employee claim that he or she has been improperly or unfairly treated and wants redress, and the grievance procedure is the mechanism available for the pursuit of this claim" (Feuille and Delaney 1992, p.190).

In the literature, the term "grievance procedures" is actually used in a variety of ways, in terms of the groups and settings that it applies to. In the North American context, it is sometimes used solely in relation to union procedures, excluding non-union situations (Lewin 2004, Lewin 2005),

³ This term distinguishes these from collective ones, however the term "*individual-level*" will generally be used in this research to avoid confusion between a single (individual) dispute and multiple disputes (plural)

although other writers, for example Feuille and Chachere (1995), Feuille and Hildebrand (1995), Feuille and Delaney (1992), use the term for both union and non-union procedures. More broadly, at an international level, differing jurisdictions use varying terminology for their procedures; for example in the UK they are referred to as 'Tribunal applications', whereas in the New Zealand system, "grievances" are one subset of the wider range of "employment relationship problems". For the sake of uniformity, this current discussion will adopt the broader concept of the term "grievance", using Feuille & Delaney's (1992) definition, so that it covers both union and non-union situations, as well as other formal employment dispute resolution systems outside of North America.

2.1.2 Grievance processes represent a complex area for research

Bemells and Foley 1996 argue that, for a number of reasons, the processes associated with grievance procedures represent a particularly complex area for research. The first, and perhaps most apparent reason, is the sheer diversity of systems, especially when these are so highly context-sensitive. Internationally, employment dispute resolution procedures take many forms, with each country, and often states or even individual companies, having their own distinctive systems. While the systems are generally based on common underlying principles, the actual mechanisms vary considerably. In addition, a combination of institutional, legal, social, economic and cultural factors together creates significantly different contexts⁴.

The literature reflects this range and diversity; with the result that it is not practicable to attempt to survey all dispute resolution systems. Instead, this review deliberately focuses on two areas; firstly on the small amount of New Zealand research, and secondly on the broader literature concerning the development of theory associated with grievances. The latter is selected as it represents perhaps the largest and most significant body of research, both in terms of volume, as well as in theoretical and conceptual development. In other words, this latter area of literature is selected due to its theoretical significance, rather than its geographical location. One factor that needs to be taken into account however, is that much of this work tends to come from a North American context which does have its own distinctive framework and practices which are dissimilar to those of New Zealand.

⁴ In addition the streams of literature do not consistently cite each other; the North American research for example, cites very little UK research and vice versa.

Although there is a tradition of geographically-situated research in employment relations, a selection based on geographical criteria would not have served the purposes of the current research. Furthermore, from the conceptual limitations inherent in such a selection, the actual comparability of differing jurisdictions is somewhat limited. While, for example, the structure of the system in a jurisdiction such as the United Kingdom may appear slightly more similar to New Zealand, there would still be significant differences compared to New Zealand, and more importantly, the research from such a setting tends to still be highly context specific, as well as lacking the extent of theoretical development present in the North American literature⁵⁶.

A brief overview of the North American system can therefore provide some background for interpreting much of the literature. In more traditional unionised North American settings, a union and a company will bargain for a collective agreement, and this process includes negotiating specific grievance procedures. It is the collective agreement itself which provides the procedures for dealing with claims that the employer has misinterpreted or violated that agreement, in what are known as “disputes of rights”, dealing with disagreements where a contract already exists (Lipsky et al., 2003). The grievance procedures are generally specific to the enterprise or the particular union, with the union and the company administering the process themselves. In this sense, the procedures “belong” to the union and the company as part of their private employment contract (Lipsky et al., 2003). Despite the decentralised approach to creating procedures, the structure of most union grievance systems is quite similar, involving a progression through a series of around four steps, each of which includes representatives from both the union and management, until culminating in final and binding arbitration using a neutral arbitrator who is jointly selected and compensated by the union and the company. As an additional protection, the collective agreement typically prohibits employers from retaliating against employees who file a grievance (Feuille and Delaney, 1992). This system of conflict resolution through contractually-based grievance procedures is a hallmark of the American collective bargaining system and is considered to be one of the most significant and enduring features of North American union-

⁵ The UK research includes of a series of governmental reports from the Employment Market Analysis and Research branch of the Department of Trade and Industry (DTI), which largely provide surveys and analyses, including the regular Workplace Employment Relations Survey (WERS). The nature of these reports is however different from the research focusing on the application and development of social science theory, that is strongly represented in the North American literature. Outside of the DTI, database searches of mainstream peer-reviewed publications indicated only around eight relevant UK articles, compared to the numerous North American articles for the same period

⁶ Australia has also traditionally had parallels with the New Zealand system, however in recent years the Australian system has evolved in ways that became radically different from New Zealand. While van Gramberg (2000, 2001, 2005) for example, has done work focusing mainly on workplace alternative dispute resolution systems, other research within the Australian setting is described as sparse (van Gramberg 2006), and a similar set range of limitations apply as with the UK situation.

management relationships (Feuille and Delaney, 1992, Lipsky et al., 2003, Ng and Dastmalchian, 1989, Petersen and Lewin, 2000).

Within the same North American setting however, the situation can be markedly different for non-union work sites, compared to unionised settings, and this further complicates the matter of research and developing generalisable findings. During the immediate post-World War II period and into the 1950s, there was a clear dichotomy between union sites, which had collective agreements with well-defined formal grievance procedures, compared to non-union settings which generally lacked any formal dispute resolution procedures (Colvin, 2003, Lipsky et al., 2003). While unionised sites generally provided significant employment protections, in contrast a virtual "employment-at-will" situation applied in non-union settings, where employees could be dismissed without requiring any justification from the employer, and with no means for the employee to contest employers' actions (Lipsky et al., 2003). In subsequent decades however, non-union companies increasingly adopted dispute resolution procedures, to the point that it is now estimated that just over half of these companies have some form of procedures in place, covering an expanding range of issues (Colvin, 2003, Lewin, 2005, Lipsky et al., 2003). The existence of official processes tends to be a function of organisation size, with formal procedures more common among larger organisations (Feuille and Delaney, 1992, Feuille and Hildebrand, 1995, Lewin, 2005).

To define "formal" non-union appeal systems, distinguishing these from more informal and unstructured approaches, Feuille and Delaney (1992) propose several criteria. They suggest that at a minimum, a formal system should be a procedure which specifies the employees' right to appeal, provides some information about the particulars of the appeal process (including how employees must file appeals and how appeals will be handled), is written down somewhere in the employer's operational protocols (for example the employee handbook), and its existence has been communicated to employees" (p. 194). This definition means that a formal procedure has to be much more structured than informal "open door" arrangements.

Studies have generally found that the dispute resolution procedures in non-union settings are not the same as union grievance procedures, either in terms of the structure of the systems, nor the protections offered. There is great diversity among non-union systems, compared to the relatively standardised approach in union procedures. While unions typically have strong procedural requirements, non-union systems tend to have fewer and less specific requirements

with a lack of due process protections (Colvin, 2003)⁷. There is wide variation in the extent to which decision-makers are independent from management, ranging from situations where management remain as the only decision-makers, through to newer options such as peer review panels and arbitration with a neutral third party arbitrator, offering greater independence and due process protections (Colvin 2003)⁸. Overall though, it is suggested that non-union procedures have tended to 'belong' to the company, often giving management the "lion's share" of process and decision control and offering inferior protection compared to union systems (Feuille and Chachere, 1995, Feuille and Hildebrand, 1995)⁹.

2.1.3 Comparison with the New Zealand system

As outlined earlier, the New Zealand system offers a significant contrast to North American dispute resolution procedures. New Zealand employment relations are set in a common law jurisdiction in a unitary state, which has an historical tradition of highly centralised employment relations and significant state involvement. Under this system, individual employment rights, including grievance rights, are contained in statutes created by central government, rather than through employment contracts. Those statutes list the specific grounds on which an employee can take action, and among these, dismissal is the ground that has produced the majority of claims in New Zealand, mirroring the experience in other countries, (Corby, 2000, Knight and Latreille, 2000). The statutory framework in New Zealand is implemented through the institutional structure described in Chapter One, where government agencies and the courts provide specialist employment institutions, with provisions generally applying to all employees, both union and non-union. In New Zealand, mediation services are provided through Department of Labour, a government agency which provides employment mediation services, rather than through mediators or adjudicators appointed by the employer and/or union as happens in other

⁷ It is estimated that between 15 and 20% of the formal dispute resolution systems in non-union companies provide for arbitration as the final step of the procedure (Lewin 2004)

⁸ Colvin 2003 suggests that in North America there is no longer a simple dichotomy between union workplaces and non-union workplaces. The development of new types of non-union dispute resolution procedures, especially those involving non-managerial decision-makers, is resulting in increasing diversity with some non-union workplaces that have procedures that are used relatively frequently, others that have much lower use levels, and many still have no formal procedures at all.

⁹ In addition to the union versus non-union differences, there are other distinctions such as the differences between public and private sector work sites; for example, in the Canadian federal government grievance procedures were traditionally prescribed by statute for each government department (Ng and Dastmalchian 1991)

jurisdictions. Similarly, the second and third tiers of specialist employment institutions, the Employment Relations Authority and the specialist Employment Court, are again centralised, state-operated facilities, with the Employment Court being part of the judicial system (although dedicated to employment issues). Overall, a key difference between the New Zealand system and that of North America is that the controls and employee protections in New Zealand consist predominantly of external regulation, which is designed by, and "belongs" to, central government, rather than the North American models which have to a large extent, been traditionally based around collective-agreements.

2.1.4 Changing employment relations

Despite the wide differences across countries, in recent years there have been a number of contemporary patterns of changes affecting workplace relationships internationally. Throughout most Western countries, declining union representation has been one of the major transformations of employment relations in recent decades. In the United States, overall union density peaked at 35 per cent in 1954 but declined through the following decades, particularly in the private-sector workforce, so that by 2001 only around 14 percent of the US workforce, and only 9% of the private sector, remained union members (Lipsky et al., 2003, Slaughter, 2007). While North American grievance research has traditionally focused largely on unionised settings, the declining union density means that for an increasingly large proportion of the workforce, non-union procedures are the only type of dispute resolution available (Colvin, 2003). A similar decline in union coverage occurred in New Zealand, with union density falling from 53% in 1985 to approximately 21% in 2004 (May et al., 2003, Blackwood et al., 2005). Although the New Zealand grievance system does not contain the union-only types of provisions found in North America, the declining union membership has nonetheless changed the overall nature of employment relations.

At the same time, in many countries there has been a significant expansion of individual-level employment rights laws, accompanied by marked increases in the volumes of formal, individual employment disputes. In North America, the introduction of extensive new federal employment legislation was followed by a "litigation explosion" (Lipsky et al., 2003, p.54), as employees increasingly filed discrimination complaints and lawsuits, with wrongful discharge litigation becoming one of the nation's "premier growth industries" during the late 1970s and the 80s (Feuille and Delaney, 1992, p.201). In New Zealand, as mentioned earlier, personal grievance

claims more than doubled from 1992 to 1998 (May et al., 2001), and in the UK there has been a similar trend with the number of employment tribunal applications approximately doubling in the 1990s (Knight and Latreille, 2000). The common issues underlying these phenomena, namely the decline of collective industrial relations and the individualisation of employment relationship, are among the key factors that have transformed employment relations in recent decades, and have increased the significance of the resolution processes for individual-level employment disputes

2.1.5 The dynamics are complex and diverse

Research into grievance procedures is not only complicated by the variety of forms that these can take, but also by a range of other aspects. Bemells and Foley (1996) propose that within any one single procedure there are numerous variables. Typically, a grievance resolution process will involve a sequence of different steps or stages, each of which can be quite different from each other. In addition, many different individuals are involved in a single dispute, and these can include the employee, union delegates, first-line supervisors, representatives from various levels of union and employer organisations, lawyers and other advocates, and dispute resolution professionals. Furthermore, the individuals involved will frequently change during the course of a dispute, with a shift from first-line, local staff in early stages, changing to higher level staff from the company and union, and often external professional representatives, as a dispute progresses. Each party functions in a very different role, with extremely diverse objectives and perspectives. From a research perspective, the issues and research questions vary according to the stage, so that the theories, levels of analysis and methodologies applying to one stage can be quite different from those associated with other stages. Interestingly, there is no "complete theory" of individual-level employment dispute processes. Bemells and Foley (1996) propose that this is not a deficiency, but rather, it simply reflects the nature of grievance research and the fact that it is not possible to develop one overall theory, because the topic is complex, and any theory attempting to capture all of the complexity would be "incomprehensible" (p.361).

2.2 What is known – existing research

2.2.1 Overview of the International literature

Given the nature of the topic, Bemells and Foley (1996) identify two main approaches in the existing grievance research;

- (a) the first consists of broader “systems” approaches, which capture the “big picture” by looking at the overall dispute process, examining broadly defined sets of variables and focusing on the interrelationships among these (p.361)
- (b) the second involves more narrowly defined research, identifying appropriate levels of analysis for specific parts of the dispute process, and utilising a more deductive approach with testable hypotheses

The two approaches are complementary. The systems models are very important for initially understanding the overall situation including the broader environment and the context, while the more narrowly defined research can subsequently progress from this, investigating specific parts of the system and creating detailed theoretical propositions (Bemells and Foley, 1996)

Research into grievance procedures can be classified according to the specific issues that have been investigated. Recent reviews have used a variety of classifications; however the themes can be grouped into several broader areas, each of which covers a number of sub-areas, as shown in Table 1 (below).

Table 1: Main areas of individual-level employment dispute (grievance) research

<i>Initial event(s) that are perceived as unfair</i>	<i>Responses</i>	<i>Grievance processing</i>	<i>Outcomes</i>
Perceived mistreatment "Grievable events"	Grievance initiation Grievance initiation / formal grievance filing <i>Research areas:</i> <ul style="list-style-type: none"> • <i>filing incidence</i> • <i>grievance issues</i> • <i>determinants incl. demographics, work context, economic, attitudinal</i> • <i>employee responses to perceived mistreatment; (employee decision making processes)</i> 	Effectiveness of grievance procedures	Post-grievance / post settlement outcomes, including reinstatement
	Other Responses <ul style="list-style-type: none"> • Less formal employee resolution approaches • Silence (suffer in silence") • Withdrawal (work withdrawal) • Exit (exit withdrawal) 		

While these issues are framed as being separate, in reality, they are inter-related. For example, the extent to which employees perceive a system as being effective (effectiveness of procedures) is likely to influence decisions whether or not to initiate a dispute (grievance initiation), and conversely some writers suggest that usage (grievance filing) is a good measure of the effectiveness of a system (Colvin, 2003, Olson-Buchanan, 1997).

This discussion will review the grievance literature relating to the processes that influence the course of an individual-level employment dispute. Again, there is a comparatively large volume of research, covering a variety of aspects; however this review selects the major issues directly related to the current investigation. This involves particularly the diverse areas of grievance

initiation, as well as grievance outcomes. Both of these research areas address behaviours and processes with potentially broader relevance across jurisdictions. In contrast, the research into areas such as grievance processing and the effectiveness of grievance procedures includes many structural issues which are context-specific and may have only limited relevance in other settings, and so these are not covered in detail. The review also does not address the broader-scale economics research which covers the relationship between grievance procedures and organisational outcomes such as plant-level performance and productivity, nor the role of grievance procedures within high-performance work practices and economic performance (Petersen and Lewin, 2000). These are larger scale, plant or industry level analyses, and not direct causal factors shaping an individual dispute (Lewin, 2004, Petersen and Lewin, 2000). While many recent research studies and reviews have often specialised by dealing with either unionised or nonunionised issues separately, (Bemmel and Foley, 1996, Feuille and Chachere, 1995, Feuille and Delaney, 1992, Lewin, 2004, Petersen and Lewin, 2000), this review seeks to summarise the key findings from both areas, while still maintaining cautions that findings from one sector may not necessarily generalise to another.

The timeframe of the present review is intentionally confined to material published in the last 20 years (1986-2006) for several reasons. Firstly, in terms of grievance research, reviews written during the 1980s and 1990s indicate that *prior* to this period there was a “relative scarcity” of research in this area. The research that did occur focused predominantly on arbitration, and was largely descriptive and atheoretical, with a lack of common foci and few generalisable conclusions (Bemmel and Foley 1996, p.360). Secondly, organisations in general, have been radically transformed in recent decades. This includes both major changes in the external context such as deregulation, the decline of manufacturing, and technological change, as well as marked shifts in the nature of work, with reorganisation of the workplace using contemporary HRM approaches, high performance work systems, flattened organisational structures and team-based approaches (Colvin, 2003, van Gramberg and Teicher, 2005).¹⁰ The organisational “world” and especially the context for individual-level employment disputes, prior to the mid-1980s would seem to be a very different place from what it is today. For these reasons there are limited grounds to justify any assumption that findings from such earlier research are necessarily still relevant.

This analysis focuses primarily on the factors affecting individuals. It starts by looking firstly at the broader background regarding the incidence and content of grievances. From there, it moves on

¹⁰ Bacharach and Bamberger (2004) for example, make the point that changes in the nature of the supervisory role mean that older research does not necessarily generalise to contemporary conditions

to explore the factors that influence the process, focusing particularly on issues associated with the behaviour of the parties, and employee decision making. Table 2 shows a summary of the key research that is involved, with details of the individual studies. The present discussion will provide a brief overview of this literature, highlighting the key themes and illustrating the progression of the research issues.

Table 2: Grievance Research - Summary

Author	Year	Issue	Method / Sample	Sector	Theoretical constructs	Independent variables	Dependent variables	Key findings
PART (1)		GRIEVANCE INITIATION						
Lewin <i>Dispute Resolution in the Non-union Firm A Theoretical and Empirical Analysis</i>	1987	Grievance Initiation - Determinants - employee	Archival data (3 year period) plus interviews; Field study	NON-UNION; 3 large US companies (with formal appeal systems)	Exit-voice-loyalty (EVLN) Organisational punishment	(1) Grievance system usage (2) outcome (win / lose) (3) grievance procedure step	Post-grievance - performance ratings, - promotion, - attendance - turnover	Determinants: characteristics of filing employees - young - male - minority groups - less educated - blue-collar workers
Lewin & Peterson <i>The Modern grievance procedure in the United States</i>	1988	Grievance Initiation - Determinants - employee, management union	Archival; (Matched samples grievants / non-grievants)	UNION: 4 unionised organisations				Determinants: general characteristics of filing employees - young - less educated - minority group (black) - male (partially significant) Initiation – management and union factors: ▪ Management policies; “committing grievances to writing” linked with higher grievance rates, ▪ Union policies; “committing grievances to writing” and taking certain grievances “through the procedure” linked with higher grievance rates
Bemmel's Reshef Statton Devine <i>The Roles of Supervisors, Employees, and Stewards and Grievance Initiation</i>	1991	Grievance Initiation – Determinants - employee, management, union behaviours	Survey (field study)	UNION: 1 union: Shop stewards' views of behaviour of supervisors, employees and stewards (Canada)		Grievance-related behaviours of (a) supervisors, (b) employees (c) stewards (see 1994 below)	Grievance behaviours Grievance rates	Behaviours of parties: ▪ All measures of supervisor, employees, and steward grievance-related behaviours were significantly related to grievance rates in this (first) study ▪ <i>behaviour</i> patterns were better predictors of grievance rates than the <i>demographic</i> characteristics, attitude, personality, or other characteristics of employees, stewards, and workplace (see earlier demographic research)
Bemmel's <i>The Determinants of Grievance Initiation</i>	1994	Grievance Initiation - Determinants - employee, management, union behaviours	Survey (field study)	UNION: shop stewards in 14 unions from 27 industry groups (Canada)		Behaviours of (a) Supervisors (consideration, structure, CA knowledge) (b) Employees (complain) (c) Stewards (informal, initiate)	Grievance rates	<i>Builds on and extends Bemmel's et al. 1991</i> Overall: Behaviours of supervisors, employees and stewards were significantly related to grievance rates ▪ but behavioural determinants of grievance rates varied across <i>grievance issues</i> - the behaviours influencing grievance initiation over job <i>description</i> , differed from those over <i>discipline</i> Consistent results across both studies: Management behaviours:

Author	Year	Issue	Method / Sample	Sector	Theoretical constructs	Independent variables	Dependent variables	Key findings
Bemmels 1994 <i>Cont'd</i>								<ul style="list-style-type: none"> Supervisor "consideration" negatively related to grievance filing rates Supervisor "consideration" negatively related to employee complaints to stewards Supervisors' knowledge of contract negatively related to employee complaints to stewards Supervisor "structure" positively related to employee complaints to stewards <p>Employee behaviours:</p> <ul style="list-style-type: none"> Employee complaints to steward positively related to filing Attempting informal resolution negatively related to filing <p>Union behaviours</p> <ul style="list-style-type: none"> Initiation (encourage employee filing) positively related to filing Attempting informal resolution negatively related to filing
Brown, Frick, Sessions <i>Unemployment vacancies and unfair dismissals</i>	1997	Grievance Initiation Determinants – Economic, labour market	Archival data (aggregated data 1961-1991)	Labour market and grievance data UK and Germany		(1) Flow into unemployment (2) vacancy rate	Demand for grievance procedures	<p>Sought to assess the relative effects of labour market factors, compared to changes in the legal infrastructure,</p> <p>Found: the individual costs of unemployment, viz. the rate of flow into unemployment and the vacancy rate, were better predictors of the demand for grievance procedures than changes in the legal infrastructure</p>
Cappelli & Chauvin <i>A test of an efficiency model of grievance activity</i>	1991	Grievance Initiation Determinants – Economic, labour market (employee decision-making)	archival data (86 plants of a single manufacturer)	UNION: Employees; (union members) Organisation-level analysis	"Efficiency Model":	(1) Wage premiums (2) Alternative job opportunities	Use of grievance system	<p>Found: Higher advantages of workers' current jobs, (wage premiums, or high unemployment in outside market), were associated with greater use of grievance procedures</p> <p>Propose: "Efficiency Model": the use of a grievance system is determined by</p> <ul style="list-style-type: none"> - wage premiums and - alternative job opportunities (labour market)
Bacharach & Bamberger <i>The Power of Labour to grieve: the impact of the workplace, labor market, and power-dependence on employee grievance filing</i>	2004	Grievance Initiation - Determinants - labour power and economic (employee decision-making)	Survey (field study)	UNION: Union-members (6 blue-collar unions) - individual and unit analysis		(1) Workplace characteristics, (i.e. Work context - supervisor behaviour, job aversiveness, temporal demands)	Grievance filing	<p><i>Draws on Cappelli & Chauvin 1991, Klaas 1989</i></p> <p>Introduces the concept of <i>Labour Power</i>.</p> <ul style="list-style-type: none"> results suggest that power-dependence contingencies moderate the effect of labour market-based instrumentality variables, on filing i.e. the impact of labour market instrumentality factors, esp wage premium, (proposed by Cappelli & Chauvin 1991) may be conditional on the degree of perceived labour power

Author	Year	Issue	Method / Sample	Sector	Theoretical constructs	Independent variables	Dependent variables	Key findings
						(2) Labour market (3) Labour power		May explain why wage premiums have more direct effects in one context than in another (Cappelli & Chauvin's 1991 subjects may have all had high labour power) Also found moderate support for the link between aversiveness of supervisory of job attributes and filing
Gordon & Bowlby <i>Reactance and intentionality attributions as determinants of the intent to file a grievance</i>	1989	Grievance Initiation Determinants - attitudinal & perceptual (employee decision-making)	Experimental	UNION: Employees; (union members) Individual level analysis	Reactance, Attribution theory	(1) Reactance (2) Intentionality (attributions)	Intent to file a grievance	The intent to pursue a grievance is determined by <ul style="list-style-type: none"> perceptions of the threat inherent in management actions (<i>reactance</i>), as well as the extent to which dispositional (rather than environmental) <i>attributions</i> appear valid explanations Increased threat (reactance), and internal (dispositional) attributions, provoked stronger intent to file a grievance
Klaas <i>Determinants of grievance activity and the grievance system's impact on employee behaviour: an integrative perspective</i>	1989	Grievance Initiation - Determinants AND Grievance system impact on employee behaviour	Conceptual	UNION	Expectancy theory (Expectancy Model)	(1) Workplace characteristics (contextual) (2) Employee characteristics (personal) (3) Motivation: <ul style="list-style-type: none"> Inequity Instrumental 	Affective reactions Response (file, or "alternative" (undesirable) Response to processing	"Expectancy Model" to integrate two streams, (1) determinants of filing (2) impact of grievance system on employee behaviour Employee reaction to a perceived grievance opportunity can be either (a) based on a genuine sense of inequity, or (b) instrumental, seeking to gain something of value Decision-making based on relative attractiveness of options Alternative responses (undesirable) more likely with unresolved inequity issues <i>Subsequently used by Bacharach and Bamberger 2004</i>
Olson-Buchanan <i>To grieve or not to grieve: factors related to voicing discontent in an organisational simulation</i>	1997	Grievance Initiation Determinants - attitudinal & perceptual (employee decision-making)	Experimental - laboratory simulation	Students (for employees) - individual level analysis		attitudinal and performance measures	Grievance filing	Tests Klaas' 1989 expectancy-based model Employees more likely to file were those who: <ul style="list-style-type: none"> value their compensation and are satisfied with their performance, and rate their performance highly (<i>consistent with Klaas' instrumentality prediction</i>) Less likely to file were those <ul style="list-style-type: none"> with high job satisfaction and who believed selection and performance evaluation systems were fair Perceived fairness of dispute system <i>not</i> related to filing (<i>c.f. justice theory</i>)

Author	Year	Issue	Method / Sample	Sector	Theoretical constructs	Independent variables	Dependent variables	Key findings
Colvin <i>The Dual Transformation of Workplace Dispute Resolution</i>	2003	Grievance Initiation Determinants – Structure of Dispute Procedures	Survey (field study)	NON-UNION managers of telecoms companies	Structure of dispute resolution procedures Work organisation systems	(1) Non-union Arbitration (2) Peer Reviews (3) Work organisation	Grievance activity - rates - appeals	Investigated relationship between (1) procedures structure, (2) work organisation systems - and grievance rates, (non-union). Found: <ul style="list-style-type: none"> non-managerial procedures (arbitration and peer review panels) associated with higher grievance rates & appeals (than managerial decision-makers) Grievance rates lower with self-managing teams (SMT's) Suggests <ul style="list-style-type: none"> An increasing range of variation between workplaces in terms of employee access to procedures SMT's affect the way disputes are resolved
PART (2)		EMPLOYEE RESPONSE PROCESSES	and POST-GRIEVANCE OUTCOMES					
Lewin <i>Dispute Resolution in the Non-union Firm</i> <i>A Theoretical and Empirical Analysis</i>	1987	Post-grievance Outcomes – employees & supervisors Causal mechanisms	Archival data (3 year period) plus interviews; Field study	NON-UNION; 3 large US companies (with formal appeal systems)	Exit-voice-loyalty (EVLN) Organisational punishment	(1) Grievance system usage (2) outcome (win / lose) (3) grievance procedure step	Post-grievance - performance ratings, - promotion, - attendance - turnover	Outcomes: One year after filing, <ul style="list-style-type: none"> filers and their supervisors had lower promotion rates, lower performance ratings and higher turnover rates negative effects were greater for filers proceeding to <i>higher steps</i> of grievance process, or <i>winning</i> the dispute Results <ul style="list-style-type: none"> consistent with <i>Organisational Punishment</i> model but contradicted <i>Exit-Voice</i> predictions Correlational so could not ascertain if due to <i>punishment effect</i> , or employees' <i>actual behaviour</i> changing
Lewin & Peterson <i>The Modern grievance procedure in the United States</i>	1988	Post-grievance Outcomes – employees & supervisors Grievance processing	Archival; (Matched samples grievants / non-grievants)	UNION: 4 unionised organisations				Post-grievance outcomes: <ul style="list-style-type: none"> Grievants had lower performance ratings, promotion rates and work attendance rates, and higher turnover rates (compared to non-grievants) Similar outcomes for the supervisors of grievants (compared to supervisors of non-grievants)

Author	Year	Issue	Method / Sample	Sector	Theoretical constructs	Independent variables	Dependent variables	Key findings
Klaas & de Nisi <i>Managerial Reactions to Employee Dissent: the Impact of Grievance Activity on Performance Ratings</i>	1989	Post-grievance Outcomes – employees Causal mechanisms	Archival data (field study), 8 year period	UNION: Unionised employees; one single public sector organisation	Organisational punishment	(1) Grievance filing (2) type (3) Outcome	Performance ratings, Promotion Turnover (dismissal)	<i>Follows from Lewin 1987, attempting to clarify causality:</i> Found outcomes varied by <i>grievance type</i> : <ul style="list-style-type: none"> Employees filing grievances <i>against their superior</i> had lower performance ratings - decrease in ratings was more severe if the employee won but grievances <i>over organisational policies</i> had little impact on performance ratings, regardless of outcome ratings did not decrease when grievants were rated by a different supervisor "the value of the voice provided by grievance systems may be limited, given that filing and winning grievances may impose costs upon employees" (p 714) Seen as supporting <i>Organisational Punishment</i> model – changed performance evaluations were due to managerial reactions, not changes in employees' actual behaviour.
Klaas, Heneman & Olson <i>Effects of Grievance Activity on Absenteeism</i>	1989	Post-grievance Outcomes – employees	Archival data, 8 year period	UNION: Unionised employees; one public sector organisation;	Dissident employee model; EVLN model	grievance type (policy / disciplinary) (1) Grievance outcome	Absenteeism	Studied relationship between grievance and absenteeism Found: <i>Absenteeism</i> effects varied by <i>grievance type</i> : <p>(a) <i>Policy</i> grievances positively related to subsequent absenteeism - consistent with the <i>dissident employee</i> model, (i.e. inequity potentially inspiring <i>both</i> grievances, and increases in absenteeism)</p> <p>(c) <i>Disciplinary</i> grievances (incl. positive and negative outcomes), negative relationship with absenteeism – not consistent with <i>dissident employee</i> model</p>
Olson-Buchanan <i>Voicing Discontent: What Happens to the Grievance Filer after the Grievance?</i>	1996	Post-grievance Outcomes – employees Causal mechanisms Employee responses to mistreatment	Experimental - laboratory simulation	Students (for employees)	Exit-voice Organisational punishment Procedural justice NPI	(1) existence of basis for dispute (absent / present) (2) presence of grievance system (absent / present) (3) filing / not	1. Performance (independent rating by non-participant) 2. Exit intent	<i>Follows Lewin 1987, and Klaas & De Nisi 1989, but only includes persons who believed they had been unfairly treated</i> Sought to assess "objective" job performance, Found: Employees with <i>access</i> to the grievance system (whether used or not), were more willing to continue working for the organisation (than those without access)

Author	Year	Issue	Method / Sample	Sector	Theoretical constructs	Independent variables	Dependent variables	Key findings
								<p>Employees with a basis for dispute (mistreatment) had</p> <ul style="list-style-type: none"> lower objective performance and higher intent to quit <p>Grievance filers</p> <ul style="list-style-type: none"> had significantly lower turnover intent than those with the same basis-for-dispute, but no grievance system access had objectively lower performance than those who had a basis, but did not file <p>Suggests that</p> <ul style="list-style-type: none"> Conflict between employee and manager does affect objective job performance (measured here) Lowered performance ratings reflected changes in employees' actual behaviour But, this (simulated) grievance system had potential to mitigate negative effects of a dispute <p>Findings did <u>not</u> support <i>Organisational Punishment</i> - perhaps both punishment effects and behaviour changes occur?</p>
Lewin & Boroff; <i>The Role of Loyalty in Exit and, Voice: A conceptual and Empirical Analysis</i>	1996	Causal mechanisms Employee responses to mistreatment	Survey (field study)	UNION and NON-UNION: Employees (non-mgt) in two large US-based, multinationals	Exit-voice-loyalty	Loyalty Perceived effectiveness of grievance procedure	Voice (defined as grievance filing) Exit	<p><i>Used only employees who believed they had experienced "unfair treatment at work" – similar to Olson-Buchanan (1996)</i></p> <p>Sought to test Hirschman's exit-voice-loyalty (EVL) model</p> <p>Findings and conclusions - see below with Boroff & Lewin 1997</p>
Boroff & Lewin; <i>Loyalty, Voice, and Intent to Exit a Union Firm: a Conceptual and Empirical Analysis</i>	1997	Causal mechanisms Employee responses to mistreatment	Survey (field study)	UNION: Employees (non-mgt) in large US-based, multinational	Exit-voice-loyalty	(Experience of unfair treatment) Loyalty Perceived effectiveness of grievance procedure Job satisfaction	Voice (defined as grievance filing) Exit	<p><i>Also used only employees who believed they had experienced "unfair treatment at work"</i></p> <p>Found for both this study and Lewin & Boroff 1996: Among employees who experienced unfair treatment,</p> <p>(a) the <i>less loyal</i> were</p> <ul style="list-style-type: none"> more likely to use the grievance procedures (unlike EVL) and more likely to exit (matches EVL) <p>(b) <i>More loyal</i> employees were</p> <ul style="list-style-type: none"> less likely to exit , (consistent with EVL) But less likely to use grievance procedures (unlike EVL)

Author	Year	Issue	Method / Sample	Sector	Theoretical constructs	Independent variables	Dependent variables	Key findings
						Fear of reprisal		Propose that loyal employees therefore "suffer in silence" (p 58) Findings call into question the validity of <i>exit-voice-loyalty</i> <i>Fear of reprisal</i> also negatively influenced filing
Lewin & Peterson <i>Behavioural Outcomes of Grievance Activity</i>	1999	Post-grievance Outcomes – employees & supervisors Causal mechanisms Employee responses to mistreatment	Archival data (two x 3 year periods)	UNION: Unionised employees & supervisors; 4 large organisations; diverse sectors	organisational punishment / industrial discipline	(1) grievance filing (2) Procedure step (3) Outcome	Post-grievance - performance ratings, - promotion, - attendance - turnover (voluntary / involuntary)	Follows from Olson-Buchanan 1996, Klaas & De Nisi 1989 Grievants and their supervisors had (compared to non-filers), ▪ significantly lower performance ratings, promotion rates and attendance (post-grievance) ▪ significantly higher turnover rates Among supervisors, involuntary turnover, (esp. termination), was significantly higher Among filers, both voluntary and involuntary turnover was higher (than non-filers); this was especially so if (a) employee <i>won</i> case (outcome), and/or (b) case settled at the <i>higher steps</i> of the procedure (level of settlement) (see Lewin 1987) Results suggest that employers exercise retribution against filers - consistent with <i>organisational punishment</i> theory Propose: parties directly involved have deterioration of employment relationships; "grievants and their supervisors have considerably less viable employment relationships... after grievances have been filed and settled" (p573)
Olson-Buchanan & Boswell <i>The Role of Employee Loyalty and Formality in Voicing Discontent</i>	2002	Employee responses to mistreatment;	Survey	University support staff	Exit-voice-loyalty	(1) Decision to respond to unfair treatment (2) Employee loyalty (3) Nature of dispute	Voice methods Response-satisfaction Exit intent Job search	Follows from Boroff & Lewin 1997 Assesses variety of methods for "voicing". Found ▪ loyal employees DO use voice (<i>contrary to Boroff & Lewin's 'suffer in silence'</i>) but prefer, and use, less formal methods ▪ the use of less formal methods relates to less job-search activity and lower intent to quit Also found ▪ loyal employees were less satisfied with formal methods

Author	Year	Issue	Method / Sample	Sector	Theoretical constructs	Independent variables	Dependent variables	Key findings
								<ul style="list-style-type: none"> the use of more formal methods was linked with higher job search and intent to quit – consistent with organisational punishment models <p>Previous research had operationalised "voice" as simply the use of a grievance system (but c.f. Hirschman's broader concept)</p> <p>Proposed: there are various voice methods - loyal employees do use voice, BUT in less formal ways</p>
Luchak <i>What kind of voice do loyal employees use</i>	2003	Employee responses to deteriorated relationship with organisation	Survey of non-management, non-professional staff	UNION Single, large organisation (Canada)	Exit-voice-loyalty	(1) loyalty (2) perceptions of effectiveness of methods (3) job satisfaction (4) demographic	(1) involvement in a third party representational role (2) grievance filing (3) direct voice (4) exit intent	<p><i>Follows from Boroff & Lewin 1997</i></p> <p>Reconceptualises loyalty and voice. Investigates whether different forms of loyalty or attachment to the organisation relate to different forms of voice</p> <p>Found: "loyal" employees, i.e. attached through an emotional bond were</p> <ul style="list-style-type: none"> less likely to use "representative voice" more likely to use "direct voice" <p>Employees attached through calculated rational reasons, (continuance commitment) were more likely to use representative voice</p> <p>Both forms of loyalty were negatively related to intent to exit</p> <p>As with Olson-Buchanan & Boswell 2002, loyal employees do use voice, BUT in direct forms, which are more flexible and can avoid escalation</p>
Boswell, Olson-Buchanan <i>Experiencing mistreatment at work: the role of grievance filing, nature of mistreatment, and employee withdrawal</i>	2004	Post-grievance Outcomes – employees Causal mechanisms Employee responses to mistreatment	Survey	University staff	Organisational justice Organisational punishment	Experience of mistreatment Voicing (filing)	Employee withdrawal (a) exit (b) work withdrawal	<p><i>Sought to clarify the mixed findings (Klaas & De Nisi 1989, Olson-Buchanan 1996, and Boroff & Lewin 1997)</i></p> <p>Investigated the relative roles of "experiencing mistreatment" (as an earlier (pre-filing) stage), and filing</p> <p>Found: Withdrawal effects</p> <ul style="list-style-type: none"> Those perceiving <i>mistreatment</i> had higher exit-related withdrawal (than those with no-mistreatment) [<i>consistent with organisational justice</i>] But, among the mistreatment group there was no difference between those filing and not filing <p>Effects of mistreatment type:</p>

Author	Year	Issue	Method / Sample	Sector	Theoretical constructs	Independent variables	Dependent variables	Key findings
								<ul style="list-style-type: none"> - <i>personalised</i> mistreatment had higher work withdrawal Propose that <ul style="list-style-type: none"> the "punishment effect" may be partly due to experiencing mistreatment, not just filing
PART (3)		GRIEVANCE PROCESSING						
Lewin & Peterson <i>The Modern grievance procedure in the United States</i>	1988	Post-grievance Outcomes – employees & supervisors Grievance processing	Archival; (Matched samples grievants / non-grievants)	UNION: 4 unionised organisations				Grievance processing: <ul style="list-style-type: none"> Provisions for <i>expedited handling</i> related to greater settlement rates, and faster <i>Union & management policies</i>; (grievances in writing and “through the procedure”), linked with stage of settlement, time to settle and increased arbitration rates
Ng & Dastmalchian <i>Determinants of grievance outcomes: a Case study</i>	1989	Grievance Processing Grievance Outcomes	Archival data	Grievance cases (15 Canadian federal work sites (2 unions; 90% unionised)		(1) grievance procedure step (2) grievant's salary grade & occupation (3) grievance issue / type	Grievance outcomes	Investigated factors affecting grievance outcomes. Found links with: <ul style="list-style-type: none"> <i>Stage</i> of process: more likely to be granted (at least partially) in first stages of the grievance procedure <i>Salary</i>: higher paid employees more likely to have the grievances granted (at least partially) <i>Issue</i>: grievances over working conditions most likely to be granted; assignment of duties were least likely <i>IR climate</i>: more favourable climate linked with settling at lower levels, and higher settlement rates
Boroff <i>Measuring the Perceptions of the Effectiveness of a Workplace Complaint Procedure</i>	1991	Procedure effectiveness Determinants	Survey (field study)	NON-UNION firm, employees and managers	Organisational justice Procedure effectiveness	Grievance procedure dimensions	Perceived effectiveness for managers and employees, as 1. complainants 2. respondents	Investigated factors affecting perceptions of the effectiveness of a grievance system (may influence filing decisions). Found: <i>Respondents</i> assess effectiveness differently from <i>complainants</i> <ul style="list-style-type: none"> Employee complainants assess perceived effectiveness differently from manager complainants For employees, an adversarial fact-finding system increases the perceived effectiveness of the system Research needs to control for whether or not individuals perceive themselves to have experienced unfair treatment (see Olson-Buchanan 1996, Boroff & Lewin 1997) A person's reference group may influence perceptions of effectiveness

Author	Year	Issue	Method / Sample	Sector	Theoretical constructs	Independent variables	Dependent variables	Key findings
McAndrew <i>Adjudication in the Employment Tribunal: Some Facts and Figures on Dismissal for Misconduct</i>	2000	Procedure – Outcome determinants	Archival data (tribunal records)	Nationwide (NZ)	Procedure	(a) the issues involved in the case (b) parties characteristics (c) Tribunal adjudication hearing and decision characteristics	Outcomes (win / lose, remedies)	The success rate of personal grievance claims declined in 1992-1999 The percentage of adjudication decisions of all types won by applicants decreased over the years The precise reason is unclear, but the best predictor of the outcome was the nature of the grievance The success rate declined for the three major dismissal categories (misconduct, performance and redundancy)
McAndrew <i>Adjudication in the Employment Tribunal: Some Facts and Figures on Caseload and Representation</i>	1999	Procedure – Outcome determinants	Archival data (tribunal records)	Nationwide (NZ)	Procedure	(a) the issues involved (nature of the case) (b) parties characteristics, incl, occupation, industry (c) form of representation (d) Tribunal adjudication hearing and decision characteristics	Outcomes (win / lose, remedies)	Overall: <ul style="list-style-type: none"> non-attendance and self-representation linked with lower success rates in some circumstances, lawyer-representation linked with higher success rates

2.2.2 Grievance rates - Incidence of individual employee disputes

The first stage in the course of an individual-level employment dispute, (or "grievance"), is the occurrence of a "grievable event" (Bemells & Foley, 1996, p.362). These are issues or events which could potentially develop into a grievance application, presumably based on an employee's perception that mistreatment, or a breach of employee rights, has occurred. Surprisingly, the grievance literature contains little information on these. A number of studies have suggested that the incidence of grievable events is quite high, however reviews do not report any studies that focused primarily on modelling or explaining the occurrence of these events (Bemmels and Foley, 1996, Lewin and Petersen, 1988). What is of considerable significance in the literature however, is the difference or "drop-off" between the large numbers of potential grievance issues ("grievable events"), when contrasted against the small number which actually do become initiated or "filed" as formal grievances. This pattern appears to be repeated across a number of countries.

In the non-unionised sector of North America, the source of data concerning "grievances" consists mainly of studies of individual companies. The definition of an appeal or grievance varies according to what that particular company's system allows, and overall these studies suggest a mean filing rate of around 5%, that is, five grievances per hundred employees, annually (Lewin, 2004, 2005). In contrast, the situation for the union sector is somewhat different, with studies consistently reporting a grievance-filing rate, across all sectors, of approximately ten percent, which is around twice that of non-union workers (Bemmels, 1994, Bemmels et al., 1991, Cappelli and Chauvin, 1991, Lewin, 2004, Lewin and Petersen, 1988). The reasons for the difference between union and non-union settings are not entirely clear; Colvin (2003) for example, proposes that a major reason for the lack of use of non-union procedures is the relative absence of due process protections compared to union procedures.

In addition, a number of North American grievance studies report wide variation in grievance rates across industries, (Bemmels, 1994, Bemmels and Foley, 1996, Bemmels et al., 1991, Lewin and Petersen, 1988), although it seems that little was known about the causes of this variation (Bemmels and Foley, 1996, p.372).

The literature also suggests that informal resolution among the parties represents an important part of the process, with a large number of disputes resolved in this manner. These "disputes" however are not reflected in the formal grievances statistics and so their precise incidence is unknown. In the USA it seems that most employment grievances are never put in writing but are instead "resolved" informally in discussions between workers and supervisors. It is estimated that

in union firms, there are about 10 unwritten grievances for every one written, or formally filed (Lewin, 2005). Overall, it seems that for both union and non-union firms, informal grievance activity is probably far more common than formal, and only a small proportion of these cases actually proceed to grievance filing.

The data from the United Kingdom provides an interesting contrast. In that setting, there is national grievance incidence data which comes from records of applications to the employment tribunal. To illustrate the difficulty of making comparisons, under this system an "application" consists of a relatively narrow range of issues including redundancy payments, wage deductions, breach of contract, discrimination and dismissal. For workplaces with 25 or more workers, the rate of these applications was 1.9 per thousand, which translates to around 0.2% of employees (Knight & Latreille, 2000). Interestingly, although 30% of workplaces used dismissal during the study period, only a "small minority" of these proceeded to the stage of a tribunal application, and the majority of dismissals did not lead to any formal response from the employee. Although it is difficult to compare actual statistics, a similar pattern to North America is evident, with high numbers of potential grievances but considerably fewer actual grievances lodged.

International comparisons are fraught with difficulty and in the case of New Zealand this is compounded by the limited local data. While there is little or no information on the occurrence of grievable events as such, there are measures of what are termed "disputes"; these are defined as disagreements which have progressed to a level where a problem has been raised with the immediate manager or supervisor, but has not been resolved and a third party is brought in to help resolve the problem. In effect it is an intermediate stage between a grievable event, and an actual grievance. Overall figures suggest that between 9 - 15% of employees experienced such a situation in a one year period (Department of Labour, 2000, 2003b). As with North America, there was significant variation by industry, as well as the type of employment agreement (collective or individual). Actual grievance filing measures are difficult to compare with other countries due to the fact that the first-level specialist employment institution, the mediation service of the Department of Labour, covers a very broad scope of issues including collective disputes. Therefore it becomes difficult to ascertain precise numbers associated with individual-level employment disputes. As with other countries however, the limited research does suggest a similar pattern to elsewhere, with high levels of issues being resolved informally and only a small proportion of proceeding to more formal actions.

2.2.3 The Determinants of Grievance initiation

It would seem that an employee confronted by a situation that he or she perceives as mistreatment and which potentially represents a grievable event, has several options. These options include taking formal action, or informal action, or perhaps even inaction. This raises the question of why some employees proceed to formal action, and others do not, as part of the quest for identifying the determinants of grievance initiation.

Research into the factors affecting grievances has taken the number of different paths, with particular approaches dominating certain periods as the research has evolved. Given the focused nature of this present review, it will use a modified grouping of the research compared to other authors (Bemmel and Foley, 1996, Labig and Greer, 1988), with six main categories; (i) individual difference variables, (ii) the work context including the social environment, (iii) economic-based models of employee decisions including Hirschman's (1970) exit-voice-loyalty (and neglect) EVL model, (iv) attitudinal and perceptual aspects of employee decisions, and (v) Klaas' (1989a) expectancy-based model.

2.2.3.1 Individual Difference Variables

Early research into grievance filing behaviour centred largely on attempting to identify individual difference variables, in the hope that these might discriminate between employees who had filed a grievance ("filers"), and those who had not ("non-filers"), (Allen and Keaveny, 1985, Labig and Greer, 1988, Lewin, 1987, Lewin and Petersen, 1988). This was based on an assumption that grievance-filing could be attributed to the "personal disposition or characteristics of the actor", and that individuals with these characteristics would "display a greater tendency to file a grievance, whatever the circumstances" (Gordon and Bowlby, 1988, p.310). Studies focused on individual attributes such as demographic characteristics and personality traits. The results however, were of limited value as the research generally produced inconsistent findings with no clear pattern of results. A major criticism was that the approach was descriptive rather than theory-based, with very little, if any, theory used to generate predictions about why such variables would be related to filing (Bacharach and Bamberger, 2004, Cappelli and Chauvin, 1991, Feuille and Hildebrand, 1995, Olson-Buchanan, 1997, Petersen and Lewin, 2000).

Recent reviews have identified some recurrent factors in the North American context, with filers in union settings tending to be younger, male, have more education, and hold more skilled jobs than non-grievants (Petersen and Lewin, 2000), while in non-union sectors filers tend to be younger,

less educated, male, blue-collar, and white (Lewin, 2004). The findings from the UK offer seemingly inconsistent results, with for example, British manual workers and ethnic minorities having an above-average incidence of claims, which is quite different from North American unionised settings (Knight and Latreille, 2000).

In the New Zealand context, Department of Labour reports noted certain demographic factors associated with being involved in "disputes" (using the earlier definition of these), which as mentioned, are not the same as "grievances". Those more likely to be involved in a dispute included those employed in a job longer than 10 years, trade union members, public sector workers, those in a workplace with more than 500 workers, NZ Maori, and full time workers (Department of Labour, 2000, 2003b).

More broadly, North American research suggests that the issue is further compounded by the fact that the relationships between demographic variables and filing vary considerably by grievance issue; for example, in non-union environments, gender is the main determinant of performance evaluation and promotion grievances, whereas age is linked with discrimination grievances (Lewin, 2004).

2.2.3.2 Work Context – structural and social factors

The term "work context" includes aspects of the workplace, job conditions, and technology, as well as the social environment, with management and union factors. Research into the influence of the work context generally operated from the premise that environmental factors have their own independent effects on grievance initiation, and so regardless of individual differences, the predisposition to file a grievance would be greater whenever certain environmental factors were present (Gordon and Bowlby, 1989, p.310, Gordon and Bowlby, 1988). Bacharach and Bamberger (2004) for example, report that traditionally, supervision and job conditions tend to be the most frequently grieved issues across a range of sectors. Therefore studies assume that aversive supervision and aversive job characteristics will present employees with more grievance opportunities, and so should be linked to an increase in grievance filing.

In practice however, despite the intuitive appeal of the link between work context and grievances, research in this area yielded only mixed results, (Bacharach and Bamberger, 2004). Research into the influence of workplace characteristics such as the structure of the organisation produced results that were sometimes conflicting, and at best an incomplete explanation of grievance rates (Cappelli & Chauvin 1991). The area of work "technology" includes the relationship of technology

and the social system of the workplace and is expressed for example, in issues such as the need to follow strict schedules and procedures, routines and task interdependence. Studies in union settings however found essentially no support for a relationship between technology and variations in filing behaviour (Bemmels and Foley, 1996, Bemmels et al., 1991, Petersen and Lewin, 2000).

In contrast, research into the social environment of work has evolved to provide a more comprehensive picture. Moving from the original individual-characteristics and employee-only models, some attempts have been made to expand the research focus to incorporate the behaviours of the three key actors, employees, union representatives, and supervisors.

The functioning of supervisors for example, has been shown to have significant influence on grievance activity. In terms of the capabilities of supervisors, Bemells (Bemmels, 1994, Bemmels et al., 1991) measured shop stewards' assessments of supervisor capabilities and found that higher perceived supervisor capabilities (and in particular, better knowledge of the collective bargaining agreement) were linked to lower frequencies of employee complaints to stewards and lower grievance rates. Supervisor leadership styles (as assessed by the shop stewards) were also found to be significant influences in these studies. One element of leadership style was "consideration", meaning behaviours reflecting mutual trust and respect between the supervisor and employees. This was negatively related with both the frequency of employee complaints, and actual filing rates; that is to say, considerate or democratic supervision was associated with fewer complaints and lower grievance filing rates (Bemmels et al., 1991). Another leadership element was "initiation of structure", meaning behaviours that organise and define the work group's activities", or "task-related directiveness" (Bacharach and Bamberger, 2004, p.521, Bemmels et al., 1991). This functioned in the opposite direction with a positive relationship to employee complaints, but no consistent relationship with filing rates.

In terms of broader management and union factors, for both parties a policy of "committing grievances to writing" was associated with higher grievance rates (Lewin and Petersen, 1988). Similarly, a union policy of "taking certain grievances through the procedure" was also positively related to grievance filing rates. At a behavioural level, not surprisingly, the frequency of stewards attempting to resolve disputes informally was associated with lower grievance rates. In contrast, stewards' "initiation" behaviours (trying to convince employees to file, or filing union grievances) were associated with high grievance rates (Bemmels, 1994, Bemmels et al., 1991). Once more however, the situation was complicated by the fact that the effects were not straightforward but varied significantly across grievance issues (Bemmels, 1994).

2.2.3.3 Economic-Based Models of Employee Decision Making

Economic frameworks provide another perspective for analysing individual grievance activity¹¹. One level involves aggregated approaches using large scale analyses. Brown et al. (1997) for example used econometric data from Germany and Great Britain covering a 30 year period, finding that the demand for grievance procedures was cyclical, and that labour market factors such as changes in the flow into unemployment and the vacancy rate, exerted a much stronger influence than changes in the legal infrastructure. This would seem to form a strong contrast with the situation in New Zealand where the period of the 1990s was known as the "era of the personal grievance and much of that change has been linked to changes in the legal structure and individualisation of the employment relationship (Cullinane and Donald, 2000).

Another level is that of individual decision making, and the economics-based approach has been largely shaped by Hirschman's (1970) model of exit, voice and loyalty (EVL). Originally developed to explain varieties of consumer behaviour, the model was adapted to explain the behaviour of individuals in the employment relationship, and provided a framework that has been extensively used for employment relations theory, research and policy. The original consumer-behaviour formulation addressed the question of why some customers who are dissatisfied with a firm's products do not switch to other firms but, instead remain and express their dissatisfaction to the 'original firm', with the objective of having the sources of their dissatisfaction (such as product price, quality or availability) corrected.

In this model Hirschman proposed two possible response options, which he suggested were mutually exclusive: one is the decision to express dissatisfaction about the perceived deterioration ("voice"), and the alternative is the decision to remove oneself from that situation ("exit"). Labour economists, especially Freeman and Medoff (1985), applied this framework to the employment relationship, particularly unionised employment relationships, where the unionised grievance procedure, was framed as a "voice" mechanism. According to this model, the individual's loyalty to the firm is the key variable which determines whether voice or exit behaviour will occur (Boroff and Lewin, 1997). When confronted with workplace problems, more loyal employees would choose to voice their concerns and try to improve the situation, rather than simply leaving (exit), with the result that the organisation could respond to the employees' complaints and remedy those problem areas, leaving it in a much stronger position.

¹¹ As mentioned earlier, this review excludes larger scale economic analyses

Drawing from Hirschman's model, Cappelli and Chauvin (1991) developed what they termed an "efficiency model" of decision-making. This proposed that employees who feel unfairly treated will weigh up the cost and benefits (or effectiveness) of grievance filing, compared with other response options such as exit (quitting), or remaining silent. Their results suggested that labour market conditions such as high unemployment, and higher wage premiums, were both associated with increased grievance filing, and so Cappelli and Chauvin interpreted this as meaning that these factors increased the costs of exit, and so made grievance-filing a more attractive option.

Bacharach & Bamberger (2004) extended and refined Cappelli & Chauvin's (1991) efficiency model. Their survey of blue-collar workers (Bacharach & Bamberger, 2004) found little support for the efficiency model's proposed direct relationships between either unemployment, or wage premiums, and grievance initiation. To explain these apparently inconsistent findings, their "integrated model" introduced the concept of "labour power", meaning the employee's perception of the extent to which the employer is dependent on the employee. They found that under conditions of high labour power, the wage premium was positively associated with grievance filing as predicted by Cappelli & Chauvin (1991). However, under conditions of low labour power, the relationship between wage premiums and grievance filing weakened or reversed; higher wages were associated with a reduced likelihood of grievance filing (contrary to the efficiency model's predictions).

Interpreting these results, Bacharach & Bamberger 2004 proposed that perceived employer dependence strongly influences an employee's perceptions of the risks of grievance filing. In a situation of high labour power, an employee will perceive a low risk of managerial retaliation, and so will be more likely to file grievances; this could explain Cappelli & Chauvin's (1991) results since the subjects were from a union and potentially all had high labour power. Conversely, for employees with low labour power, the perceived risk of managerial retaliation for filing may outweigh the possible benefits, with the result that employees will be reluctant to take grievance action, even if for example, their wages are higher than in outside organisations.

2.2.3.4 Attitudinal and Perceptual Factors

From a social psychology perspective, Gordon and Bowlby (1989) conducted experimental studies to assess the influence of reactance theory and attribution theory in grievance initiation. Reactance theory proposes that threats to a person's freedom will result in a negative psychological state, namely reactance, which motivates the person to act in a manner designed to restore the freedoms perceived to have been lost. If the freedoms are important, or if there is a

greater number of freedoms threatened, this will result in a greater amount of reactance, and so individuals will be more intent on restoring those freedoms. Attribution theory is concerned with the processes by which an untrained observer makes sense out of the actions of others, attributing the causes to either internal "personal" dispositions of the other party, or to environmental factors which are external to the other party. They found a significant relationship between both reactance and attribution, and the intention to file a grievance. The strongest intent occurred when there was a greater perceived threat to the workers' freedom (high reactance), or where the offending actions were seen to be motivated by a dispositional (personal) rather than environmental causes.

2.2.3.5 Klaas' 1989 "Integrative Perspective"

Klaas (1989a) proposed an elaborate model of decision-making, based on expectancy theory. This divided the grievance filing process into several stages, commencing at the point where an employee perceives a "grievance opportunity". Of particular importance are the employees' reactions to such opportunities, and these are classified into two functional groups; firstly those employees who are motivated by a sense of inequity (unfairness) resulting from the perception that they have been mistreated, and secondly those who consider filing simply for instrumental (opportunistic) reasons, perceiving an opportunity to gain something of value. The model proposes that these reactions are followed by a decision-making process where employees weigh the likely costs and benefits of filing. In terms of expectancy theory this involves assessing the relative attractiveness of filing compared to other options.

The model pays particular attention to employees' "alternative responses", such as being absent, lowered productivity, quitting, or disruptive workplace behaviour. Throughout various stages, those filing for instrumental reasons are seen as less likely to engage in alternative responses, whereas those motivated by a sense of inequity are driven by a desire to restore equity, and so if filing is not perceived as sufficient for restoring equity on its own, they are likely to engage in alternative responses.

In a laboratory experiment Olson-Buchanan (1997) tested this model and found that employees who felt more satisfied with their performance and who valued their compensation were likely to file a grievance against their manager. It seemed that employees who valued an outcome that could be restored through the grievance system may place great weight on this benefit when deciding whether to initiate a grievance, consistent with the model's "instrumentality" prediction.

2.2.4 Challenges to the decision-making models

The next section outlines a sequence of research studies which explored critical challenges to the validity of the exit-voice model. The sequence was triggered by findings which suggested that certain outcomes may occur following grievance activity, and these had the potential to feed back into employees' decision-making processes; therefore the studies address both the decision-making and grievance outcome stages. The research involves several competing explanatory models, and has important implications for understanding how employees experience, and respond to, instances of perceived mistreatment in the workplace, as well as possible changes that occur in the employer-employee relationship.

2.2.4.1 The traditional / conventional wisdom

Drawing from Hirschman's exit-voice-loyalty model, labour economists such as Freeman and Medoff had proposed that by providing employees with a "voice" mechanism, unions produced a range of positive benefits for organisations, especially through reductions in turnover (Boroff and Lewin, 1997, Lewin, 2005). A key part of the rationale was that if employees used "voice" in response to a perceived deterioration in their employment relationship, this would benefit organizations by allowing them to learn about the problem more quickly, and provide more specific information to address the issues, as compared to situations where employees would simply exit the organisation (Olson-Buchanan and Boswell, 2002). Similarly, employees could also benefit through being able to resolve disputes, restoring their employment relationship and allowing them to remain with the company, rather than having to exit. The "conventional wisdom" therefore became that voice action through grievance procedures, was preferable for both employers and employees (Feuille & Delaney, 1992).

Much of the early research used in support of these claims had occurred at a very broad level, assessing the effects of union coverage by simply comparing factors such as quit rates among workers who were, and were not, covered by grievance procedures. As such, this research did not focus on the processes involved in the grievance procedures themselves. A major challenge occurred however when a series of studies reported largely negative outcomes following grievance filing and settlement, seemingly contradicting the established "conventional wisdom" and raising major questions about the validity of the exit-voice model as an explanation of employee decision making.

2.2.4.2 The negative outcomes and competing explanations

In one of the first studies, Lewin (1987) analysed individual worker data from non-union organisations, comparing employees and supervisors involved in grievances with samples of employees and supervisors who were not involved. Lewin found that, one year after grievance settlement, performance ratings and promotion rates declined, and turnover rates increased significantly, for grievance filers compared with non-filers (Lewin, 2005). In contrast, no significant differences existed between the filers and non-filers groups in these areas prior to, or during, grievance filing. The effects were greater when employees proceeded to higher steps of the grievance process, or won the dispute. The supervisors of filers had closely similar outcomes also, with lower promotion rates and performance ratings, and higher turnover rates post settlement (Lewin, 1987).

Using a similar pre-test, post-test, control-group design on unionised organisations, Lewin and Peterson (1988), and later Lewin and Peterson (1999), obtained analogous results, finding that, compared with matched samples of employees who did not file, grievants once again had lower performance ratings and promotion rates, plus higher turnover rates; furthermore, among union groups there were also lower work attendance rates. As with Lewin 1987, this was despite there not being significant differences between the groups before or during grievance filing and settlement (Lewin 1999). Once more, the supervisors of grievants also experienced similar outcomes, including increased turnover which was largely due to being dismissed (Peterson and Lewin, 2000; Lewin and Peterson, 1999).

The conclusion from these studies was that employees who used grievance procedures, along with their direct supervisors, suffered negative outcomes. The causal mechanism by which these outcomes occurred was not fully clear though, with several competing explanations and theoretical models potentially being relevant. The first, the longstanding exit-voice-loyalty model, predicts that voice action should have resulted in improved working conditions and employee performance, along with a reduction in turnover (exit). However, the results obtained were in fact just the reverse of this.

In contrast, an organisational punishment model predicts that grievance filers may be punished for violating the informal rules of the organisation. Therefore, the declines in work attendance, performance ratings and promotion rates, along with increased turnover, all closely fitted the model's predictions. It was suggested that managers may have sought reprisal, for example by deflating the performance ratings, either unconsciously or perhaps even intentionally, so that grievants would "win the grievance battle in the short run but lose the career war in the long run"

(Feuille & Delaney, 1992, p. 224). Further support for this hypothesis came from Lewin's (1987) study, where some internal surveys indicated that "fear of management reprisal" was the main reason for not filing appeals, even though a large proportion of employees believed they had one or more issues that merited a grievance (Lewin, 1987). Furthermore, in Lewin and Peterson (1988), although a large percentage of employees informally discussed grievance issues with their immediate supervisors, few proceeded beyond this, suggesting employees were much more willing to informally resolve grievances than to challenge management with a formal complaint.

An alternative explanation however was that the negative post-settlement outcomes may have been due to actual behavioural differences. The grievants and their supervisors may in fact, have been low performers. One variant of this hypothesis is that the "true performance" of this group may have been lower all along, but prior to the grievance filing this had not been detected. Under this scenario, it was perhaps only the process of grievance filing and resolution that prompted employers to pay closer attention to their performance, which then revealed the performance deficits (Lewin and Petersen, 1999, Olson-Buchanan, 1996). An alternative option is that the grievants and supervisors may have subsequently lowered their performance after the settlement.

Seeking to clarify the causal process responsible for these effects, Klaas and de Nisi (1989) analysed performance evaluation records from a unionised organisation. They found that post-grievance outcomes varied according to the type of grievance, with employees who filed "personal" grievances against their supervisor's disciplinary actions being significantly more likely to receive lower ratings (especially if the employee won), whereas employees who filed "policy" grievances concerning management policies experienced little impact on their ratings (Lewin and Petersen, 1999). Interestingly, the effect disappeared when employees were rated by a different supervisor from the one involved the grievance (Bemells and Foley 1996). Klaas and De Nisi (1989) therefore proposed that the differences in ratings were due to managerial reactions, with managers responding negatively to grievances directed against them, and discounted the hypothesis that changes in employee behaviour were the cause.

Overall, the consistent findings of negative punishment-like outcomes across these studies (Klaas and De Nisi, 1989, Lewin, 1987, Lewin and Petersen, 1988, 1999) represented a strange 'irony, since grievance systems were intended to protect employees, providing a fair and productive way to deal with complaints (Boswell and Olson-Buchanan, 2004). On the basis of the evidence available, these researchers concluded that the outcomes were at least partly due to grievance-filers being punished, consistent with an organisational punishment-industrial discipline perspective (Klaas and De Nisi, 1989, Lewin, 1987).

2.2.4.3 Alternative research approaches – redefining the measures

There were limitations in these studies however, as they had been limited to aggregate-level analyses using archival data. Little was known about the 'comparison group' of non-filers, particularly whether or not they had actually experienced some perceived mistreatment. A key assumption underlying Hirschman's model was that a person firstly experienced some perceived deterioration in their relationship with the organisation, which then lead them to consider exit and voice options. The comparison group however potentially included both people who may, and may not, have experienced mistreatment. Therefore, by not selecting only employees who had experienced mistreatment, it could be argued that this pre-requisite "boundary condition" specified by Hirschman was not present (Lewin and Boroff, 1996, p.71).

Lewin and Boroff (1996), and Boroff and Lewin both addressed this shortcoming by using field study samples which consisted exclusively of employees who believed they had been unfairly treated at work, comparing mistreated employees who did choose to file, with other mistreated employees who elected not to file. In contrast to the earlier research, the studies found a negative relationship between loyalty and exit, with the more loyal employees being less likely to leave the organisation, which was consistent with the predictions of the exit-voice-loyalty model. However, contrary to the exit-voice-loyalty model, there was a negative relationship between loyalty and filing, so that instead of being more likely to file, loyal employees were actually less likely to use "voice" in the form of the grievance procedures. As with Lewin 1987, these studies reported a fear of reprisal for filing grievances, and this too was negatively associated with filing, even though the 1997 study involved a large unionised firm with a collective agreement and federal laws prohibiting retribution. Despite their improved methodology, these two studies seemed to add to the increasing body of research which called into question the core "conceptual foundations and the empirical validity of the exit-voice-loyalty framework as it applies to the employment relationship" (Boroff and Lewin 1997, p.60). Furthermore the researchers now "strongly concluded that loyal employees "suffer in silence" rather than exercising voice" (Lewin and Boroff 1996, p.87; Boroff & Lewin, 1997, p.60).

Olson-Buchanan (1996) sought to clarify to what extent the so-called "punishment" effects reflected an actual change in grievants' behaviour. The design of this study was different from previous research in several key aspects. In place of the correlational data which had limited the ability to assess the direction (and existence) of causality, Olson-Buchanan (1996) instead utilised a laboratory simulation. To ensure that the comparison group all satisfied Hirschman's "boundary condition", the study involved a group of people who all experienced a similar complaint (mistreatment), but who either did, or did not, have the opportunity to voice their

discontent through the grievance procedure. Finally, where earlier research had measured "performance" indirectly through supervisors' ratings, Olson-Buchanan (1996) sought objective measures.

The findings created several interesting new perspectives on post-grievance outcomes. Firstly, in terms of access to a grievance system, employees who had access were significantly less likely to exit, compared to those without access, suggesting that by providing a "voice" option this (simulated) grievance system had potential to mitigate the negative effects of a dispute, and reduce turnover. In terms of filing activity, while previous studies had proposed that filers had higher turnover, this study found instead that grievance filers had lower turnover intent, consistent with a key exit-voice prediction. However, once more grievance filers had significantly lower objective job performance than nonfilers, contradicting exit-voice predictions. One new insight was the finding that conflict between an employee and manager does affect the employee's objective job performance, and not simply the manager's evaluation; having a basis for dispute, on its own, was associated with both lowered job performance, and also increased turnover intent. Overall then, these findings revived some support for the exit-voice model, but more importantly they were seen as not supporting the organisational punishment theory since the so-called "punishment effects" would seem to reflect changes in actual behaviour, rather than being entirely due to managerial retribution.

Until this point, the existence of negative post-grievance outcomes had largely been interpreted as meaning that Hirschman's model was perhaps not supported in the employment context. One core assumption that had remained largely unchallenged however, was the way in which "voice" had only been operationalised in terms of the use of a grievance system. Using a field study, Olson-Buchanan and Boswell broadened the options for "voice", to include varying degrees of formality. Contrary to Boroff and Lewin's (1997) claim that loyal employees will just 'suffer in silence', they found that loyal employees do actually use voice but prefer, and use, less formal methods, and that use of these methods is associated with lower intent to quit; all of which were relatively consistent with the exit-voice-loyalty model.

Pursuing a similar theme, Luchak (2003) sought to reconceptualise "voice", and proposed two separate forms; firstly, "direct voice" involving employees' efforts to bring about change through two-way communication with another member of the organisation; and secondly, "representative voice" which involves communicating indirectly through a third-party representative or process. Luchak also reconceptualised "loyalty", and findings from a field study suggested that that differing forms of "loyalty" were related to different expressions of voice. Employees who felt attached through an affective, emotional bond were more likely to use direct voice, whereas

employees with a more rational, calculated attachment were more likely to use representative voice.

Taking a different perspective, Boswell and Olson-Buchanan (2004) separated out the role of experiencing mistreatment itself, as distinct from voicing the mistreatment. Importantly, they found that the experience of mistreatment on its own was significantly linked to exit-related withdrawal (exit), and that grievance filing made little additional contribution to this. This suggests that some of the negative outcomes observed in the post-grievance stage may be partly due to the initial experience of mistreatment itself, and not solely a consequence of taking grievance action. Consistent with the organisational justice literature, a person who perceives mistreatment may respond by changing their behaviour and/or leaving. The type of mistreatment was also particularly important; drawing on Klaas and De Nisi's (1989) distinctions between grievance types, they found that personalised mistreatment was linked with higher work withdrawal than policy-related mistreatment.

2.2.4.4 Summarising grievance initiation and outcomes

In summary, it seems generally agreed that after grievances have been settled, employees do experience negative outcomes, particularly in the areas of performance, promotion, attendance and exit. The unanswered question however concerns the precise causes of this. It is unclear as to whether, and perhaps to what extent, these outcomes are consequences of actual differences in employees' work behaviour, or alternatively they result from punishment and retribution from employers, as evidenced by employees' fear of reprisals from their employers. Shifting the focus from the actual grievance procedures, there may even be behaviour changes which result purely from the original mistreatment incident, as distinct from any grievance activity. The issue is not straightforward, and it is possible that there may even be several of these supposedly "competing" options at work, each partially contributing to the overall effect.

In practical terms, these issues have considerable significance for understanding individual-level employment disputes and grievance processes. Although theoretical models are still under debate, they do clarify the choices confronting employees, along with the influence of post-settlement outcomes on employees' decision processes, and the varying ways in which parties deal with disputes. Amidst the debate, one significant conclusion emerges. If the dispute sequence is triggered by deterioration in the relationship between the employee and their employer, then it would seem that grievance activities often do not successfully restore that relationship, irrespective of whether or not the grievance procedures themselves do, or do not,

contribute to that decline.

2.2.5 Grievance procedure effectiveness and grievance processing

In terms of evaluating the effectiveness of grievance procedures, a number of criteria can be applied. One is the basic question of whether or not employees are willing to use the system, as reflected in the incidence of grievance filing which has been discussed previously. Similarly, the outcomes of grievances can be seen to reflect the effectiveness of the procedures, and some of the negative outcomes have been discussed above.

In contrast, grievance processing concerns when, where, and how disputes are settled. These aspects are distinct from "effectiveness" in the sense that processing reports tend to simply reflect what occurs; whereas judging "effectiveness" involves comparing the results against some agreed definition of what is optimal (Bemmels and Foley, 1996). Although grievance processing has been one of the more traditional areas of grievance research, the literature that has developed is highly contextual and closely interwoven with the specific details of a particular system, with the result that findings do not readily generalise to other settings. For these reasons, only a brief overview will be provided.

Firstly, in terms of the step at which grievances are settled, across most systems, the pattern tends to be pyramidal with a large majority settled at the first (written) step, and numbers decreasing at each of the progressive steps. In the North American non-union sector for example, it is estimated that around 25% of cases settle at the second step, and around 13% at the third. Only a small fraction of cases reach the last step, with around 3-4 percent in union settings and around 2% in non-union settings (Lewin, 2005, Ng and Dastmalchian, 1989)¹².

Secondly, research into the "outcomes" of grievance systems at this level has largely concentrated on the nature of settlements, and particularly who wins and who loses. Individual systems will typically identify which party is more likely to prevail; for example in the North American union environment Feuille and Hildebrand (1995) suggested that a greater proportion of grievances tended to be resolved in the employee's favour. Feuille and Hildebrand (1995) noted however that there was no single explanation for why employees prevail in some grievances and not in others, and this is symptomatic of a wider absence of theoretical development.

¹² The New Zealand system does not distinguish individual-level employment disputes from collective issues in its statistics for the mediation services provided, so direct comparisons are not readily available. However, after excluding "recorded settlements" (settlements reached by the parties themselves without full mediation assistance from the mediation services), from the total number of applications, "not settled" cases constitute only approximately 16% of the total caseload, suggesting a similarly high resolution rate to that experienced in North America

In New Zealand, McAndrew (1999) detailed the nature of cases handled by the Employment Tribunal, and particularly the proportion of dismissal grievances, as well as the relationship between the parties' choices for representation, and the outcomes of adjudication decisions, suggesting that the employers without professional representation are less likely to be successful. A subsequent study, (McAndrew, 2000) reported a gradual decline in applicant success rates for personal grievance claims throughout the operation of the Employment Tribunal, but the data did not allow identification of specific reasons for the decline.

One broader principle that has emerged is that usage is associated with the perceived fairness of grievance system (Petersen and Lewin, 2000), as illustrated with Colvin's (2003) report that the lack of use of non-union dispute resolution procedures is attributable to managerial decision-makers being seen as potentially biased. Ng and Dastmalchian (1989) proposed links between grievance outcomes and factors such as the salary of the grievant, grievance issue, and the industrial relations climate of the organisation. The complex nature of the area was illustrated by Boroff's (1991) study which highlighted the differing perspectives of employee and manager complainants, as well as the differences between persons who had, or had not, experienced unfair treatment. Bemells and Foley (1996) identify some significant gaps in the research, and these include particularly questions of how parties make decisions as to whether or not to progress a case through the higher stages of a system; for example, why do unions and management sometimes pursue cases that are lacking in merit, or how do union officials decide whether to appeal decisions.

2.2.6 Other issues - reinstatement and managers' decision processes

Two associated issues, which have been alluded to in the previous discussion and repeat some of the main themes, are employee reinstatement and manager's decision-processes.

2.2.6.1 Reinstatement

The literature discussed up to this point has focused largely on situations where the grievant remains with the employer, during and immediately after the grievance being resolved. In contrast, cases involving dismissal and subsequent reinstatement represent a different type of

situation, and the issue of reinstatement highlights more of the significant differences between the North American and New Zealand systems.

In New Zealand, as discussed earlier, the majority of grievance cases involve dismissals, where the employment relationship has ended and there is little likelihood of the grievant returning to employment with the respondent employer (Department of Labour, 2003a, McAndrew et al., 2004). While reinstatement is listed as the "primary" remedy for personal grievances under the Employment Relations Act 2000 (s125 ERA 2000), in practice it is rarely sought by applicants¹³.

The North American reinstatement literature is limited by the fact that it is rather dated and tends to focus on arbitration awards for dismissal cases. In terms of incidence, reinstatement occurs in about half of the grievance cases where an award substitutes severe discipline in place of dismissal, (a type of outcome which is quite dissimilar from what occurs in New Zealand). Simply being awarded reinstatement is only part of the issue though, and the "success" of reinstatement is sometimes defined in terms of the numbers who are both awarded reinstatement, and who also choose to return to work. There is wide variation among the findings regarding such returns, with figures ranging from 46% to 91% (Eden, 1994, Lewin, 2005). Either way, it would seem that a significant number of grievants are reluctant to return to work, however the actual dynamics that account for this phenomena are not fully clear. Some propose that unionisation is a relevant factor, with union settings associated with the higher return rates (Eden 1994). Alongside this, one reason frequently cited by employees for their reluctance to return, is fear of retaliation from the employer (Bemmels and Foley, 1996, Lewin, 2005).

The issue does not end at the point when a reinstated employee chooses to return to work, as there are major issues concerning the viability of post-reinstatement employment. Despite the fact that employers report being generally satisfied with the subsequent performance of reinstated workers and post-reinstatement discipline problems are not significant, turnover is high among this group. The evidence suggests that unfair treatment after reinstatement is the main reason for this turnover, implying that employee fears of retaliation may be well-founded (Eden 1994; Bemmels and Foley, 1996; Lewin, 2005). Workplace size may also be significant, with workers more easily integrated into large-scale workplaces. Overall, the North American research suggests that while employees may use "voice" through formal procedures and obtain a reinstatement award, the broader workplace dynamics frequently result in further deterioration, and often termination, of the relationship. Eden (1994) observes that, at least for non-union

¹³ A Department of Labour report Department of Labour (2003b) Evaluation of the Short-Term Impacts of the Employment Relations Act 2000. Department of Labour, NZ indicated that reinstatement was sought only in around 2.5% of cases in New Zealand

situations, reinstatement is "not effective as the primary remedy for unjust dismissal"; a comment that is somewhat at odds with the mandate of the New Zealand grievance legislation.

2.2.6.2 Managerial decision-making

While the literature focuses largely on decision-making by employees, in contrast there is only limited coverage of the factors involved with managers' decisions. Managers make decisions in a number of areas, including firstly, when a manager acts as a direct decision maker during in-house procedures, and secondly, as mentioned earlier, when a case goes to an external forum, managers make decisions on issues such as whether to contest a grievance claim, as well as when and how to settle.

While there are a number of studies regarding managerial decisions in disciplinary situations, (Judge and Martocchio, 1995, Klaas and Dell'omo, 1991, Klaas and Dell'omo, 1997), Rollinson argues that discipline and grievance are different processes with very different systems of justice, and therefore the findings from discipline-related decisions are not applicable to grievances. In support of this Hook et al., (1996) for example, found that managers use very different styles for discipline compared to grievances. Interestingly, for grievance cases, the most influential factors affecting managers' approaches consisted of the extent to which the issue challenges the manager's authority, the employee's length of service, and the employee's gender (Rollinson et al., 1996). The grievant's work history was also found to be a significant influence when making determinations regarding grievance cases (Klaas, 1989b).

2.2.6.3 The Role of Power in the Grievance Literature

It is important to note that the concept of Power receives little explicit attention in the traditional grievance literature. The research does examine a range of variables determining for example, whether employees are likely to take action to dispute an issue, in terms of factors such as demographic characteristics and systems present in organisations. A range of variables such as those associated with expectancy models, along with the range of post-grievance outcomes, and behaviours such as management retribution, all have connotations of Power and could be reframed as power-related phenomena. Bacharach and Bamberger (2004) however, are the only researchers to actually take the step of reconceptualising one specific set of variables, in that case relating to labour market factors, as explicitly power-related elements, and from this they

propose the notion of labour-power as an underlying concept which could account for the results obtained. This reframing of the phenomena in terms of Power does not occur for the majority of the research though and thus remains an unexplored dimension.

As will be seen in the findings from the present research, Power did later prove to be a significant construct. This latter emergence of this construct subsequently necessitated revisiting the literature in order to locate research that had relevance to the behaviours observed in the study. This will be discussed in further detail in Chapter 8 where the functioning of Power is explored in greater depth.

2.3 Overall summary and directions for research

Grievance research commenced largely from what Bemells and Foley (1996) refer to as "systems approaches", and then progressed to the more detailed investigations into specific aspects of grievance processes. The literature reviewed here is predominantly from this second category, representing the more established stages of research that are present in certain jurisdictions. The specific research areas are illustrative of some of the dynamics involved in grievances (individual-level employment disputes), and together they contribute to explaining and predicting what occurs in the overall grievance process. Nonetheless, there are still significant gaps, and while the literature has sketched out some of the potential processes involved regarding employees, many aspects still remain unresolved within that realm; furthermore, beyond this there is only limited information regarding the dynamics associated with other parties, particularly models incorporating supervisors, managers, union representatives and other advocates. At this time therefore, the literature is still incomplete.

Individual-level employment disputes in New Zealand represent a situation which is relatively unexplored, and significantly different from other jurisdictions. The distinctive features of the New Zealand situation include a tradition of highly centralised employment relations, with the area of grievances and employment relationship problems still controlled largely by external regulation based upon statutes created by central government. The accompanying institutional structures for resolving grievances and employment relationship problems are largely state-controlled, centred on government agencies and the courts, and these stand in strong contrast to the privately-based systems that now operate in many other jurisdictions. This unusual statutory framework, along with its accompanying institutional structures, combined with the social,

economic and cultural contexts, together create a very specific environment for the functioning of employment relationship problems. There is little evidence to indicate that research from other settings would necessarily be directly applicable in New Zealand, especially given the range of factors which make the country relatively unique. Intuitively, it would seem that many of the broader processes outlined in the literature may have relevance, but it is not clear as to whether, and how, they would function in this setting. There is not sufficient information to predict what may apply.

In commencing research in such a comparatively "new" setting, it is therefore appropriate to use the broader "systems approaches" capturing the "big picture", by looking at the overall dispute processes (Bemmels & Foley, 1996). This is needed as a preliminary step which could then create a framework from which subsequent research could proceed to investigate specific sub-areas and issues.

Concluding Comment

In compiling the present review of the "classical" grievance literature, the process involved both database searches of current articles, as well as also going back to original articles and doing forward-searches of subsequent citations. This attempted to ensure that little or nothing of significance was omitted from the review process. The focus was on literature that contributed to theory development, rather than descriptive material. The dates of the articles therefore reflect the stages in the emergence of this field.

The strong focus on theory development meant that articles were selected in terms of their theoretical contribution, rather than their geographical source. While some readers may initially anticipate that there would be more material from locations geographically closer to New Zealand, in practice, there was only limited material from those areas that contributed to the specific type of theory development. Furthermore, the legislative changes that have occurred in jurisdictions such as Australia during recent decades have meant that, despite having previously had similarities in their earlier historical background, their subsequent systems have become markedly different from those functioning in New Zealand, and so the reality is that comparisons are only of limited value in relation to the primary purpose of the current research.

Chapter Three: Methodology

3.1 Introduction and Research Question

3.2.1 Motivation for the study

Research in other jurisdictions has followed a progression, initially commencing with approaches which provide a broad overview, and then progressing to more detailed investigations into specific aspects of grievance processes. That literature however is still incomplete with many aspects unresolved. In the New Zealand setting, individual-level employment disputes represent a situation which is relatively unexplored, and potentially quite different from other jurisdictions. There is little evidence to indicate that research from other sites would necessarily be directly applicable in New Zealand, especially given the wide range of contextual factors which make the country relatively unique. Intuitively, it would seem that many of the broader processes outlined in the literature may have relevance, but it is not clear as to whether, and how, they would function in this setting. There is not sufficient information to predict what may apply.

The primary motivation for the study was therefore to explore the broader processes involved with individual-level employment disputes in the New Zealand setting, in order to gain greater insight into these processes, as well as potentially creating a basis for subsequent research. Given the large-scale changes in New Zealand employment relations that have occurred in recent decades, this research would be of considerable relevance for practitioners, policymakers and researchers, especially since the issue is highly topical and the focus of contention.

More specifically, the purpose of the study is to discover what occurs, once an individual employment dispute has emerged, and particularly what factors influence the course of such a dispute.

3.1.2 The Research Question

The central question of the research was "what influences the course of an individual-level employment relationship problem?"

The research uses the New Zealand terminology of "employment relationship problems", and for the purpose of this present study, the term "individual-level employment relationship problem" was defined as;

“an employment issue occurring between an employee and their employer which is not able to be resolved by discussion with the immediate manager or supervisor and then a third party is brought in to help resolve the problem”¹⁴

3.2 Research Design

Denzin and Lincoln (1994) define a research design as being a flexible set of guidelines that connect theoretical *paradigms*, firstly to *strategies of inquiry*, and secondly to *methods* for collecting empirical material. Research design therefore involves three basic questions;

- (a) determining the paradigm and how this relates to the design
- (b) determining the strategies of inquiry that will be used
- (c) determining the methods that will be used for collecting and analysing empirical materials

This discussion will follow Denzin and Lincoln's (1994) sequence in developing the research design for the study.

3.2.1 The Relationship of Paradigm to Research Design

3.2.1.1 What is a paradigm?

The initial question in Denzin and Lincoln's (1994) model of research design concerns the identification of the paradigm underlying the research. A paradigm is the "set of basic beliefs" or assumptions that form, "a worldview" (Cresswell, 1997, p.74) that defines, for its holder, the nature of the world, and the individual's place in it, (Denzin and Lincoln, 2000b). It influences what a researcher sees as real, what can be known, and how a credible account of this information can be given to other people (Miles and Huberman, 1994), and as such shapes the nature of inquiries. Such a paradigm or interpretive framework is likened to a "net", which is made up of a set of premises that the researcher is bound within (Denzin and Lincoln 2000b, p.19). Those premises address three fundamental interconnected questions;

- Firstly at the *ontological* level; what is the nature of reality, what is the form and nature of reality

¹⁴ This is the definition of a "dispute" used in Department of Labour research Department of Labour (2002d) The Process of Dispute Resolution - A Qualitative Study Amongst Employees & Employers. Employment Relations Service (ERS).

and, therefore, what in effect can be known about it? (Guba and Lincoln, 1994, p.108)

- Secondly there is the interconnected question of *epistemology*, or how do we know the world - what is the relationship between the inquirer and the known, and "what can be known" (Guba and Lincoln 1994, p.108)
- Thirdly there comes *methodology*, that is the "methodological question" (Guba and Lincoln, 1994, p.108) or the "process of research" (Creswell, 1997, p74), with the process by which we gain knowledge about the world, and how can an inquirer go about finding out what they believe can be known, or the ways of examining the world.

3.2.1.2 The Positivist Paradigm

The positivist paradigm has dominated traditional science. In terms of ontology, this assumes that there is a "real" world, an "apprehendable reality", and that research can potentially capture the "true state of affairs" (Guba and Lincoln 1994, p.109). The accompanying epistemology proposes that an enquirer must then function with objective, value-free detachment to discover "how things really are" and "how things really work" (Guba and Lincoln, 1994, p.108). In this, the investigator and the investigated object are independent entities, and the investigator is assumed to be capable of studying the object without influencing it. The methodology employs an experimental and manipulative approach, where questions and/or hypotheses are stated in propositional form and subjected to empirical test to verify them. Conditions must be carefully controlled (manipulated) to prevent outcomes from being influenced.

In positivist social science, four criteria determine the 'goodness' or quality of research:

- internal validity: the degree to which findings correctly map the phenomenon in question
- external validity: the degree to which findings can be generalised to other settings similar to the one in which the study occurred
- reliability: the extent to which findings can be replicated, or reproduced, by another inquirer
- objectivity: the extent to which findings are free from bias (Denzin and Lincoln, 1994)

The positivist paradigm has taken the form of the "received view" in traditional 'hard science', with such hallmarks as an emphasis on quantification, and the use of a priori hypotheses, in order to measure and analyse causal relationships between variables (Guba and Lincoln, 1994, p.106). While this paradigm has been dominant for some time, it has been subject to a range of recent criticisms. At the most basic level, these include the fact that, while this approach may be

rigorous in the testing and evaluation of hypotheses, it does little to address the issue of deriving those hypotheses in the first place.

3.2.1.3 The Postpositivist Paradigm

Postpositivism represents a closely related paradigm. At an ontological level, postpositivists share the belief that there is an objective reality "out there", however postpositivists argue that, since the nature of phenomena makes it impossible to fully capture this reality, and that human intellectual mechanisms are not able to deal with its full complexity, (Guba and Lincoln, 1994, p.110) reality therefore can "never be fully apprehended, only approximated" (Denzin and Lincoln, 2000b, p.9). This approximate knowledge of reality will therefore be probable rather than perfect. A postpositivist epistemology shares the criteria of internal and external validity, reliability and objectivity, and emphasis is placed on the discovery and verification of the theories. In addition, other "guardians" of objectivity are emphasised, such as the extent to which new findings are congruent with the critical tradition of pre-existing knowledge. The replication of findings is seen as indicating that they are "probably true" however this still leaves open the possibility that subsequent research may yet disapprove the theory, through falsification. In terms of methodology however, postpositivism departs from the predominantly quantitative positivist approach, and instead uses "rigorously defined" qualitative methodologies (Denzin and Lincoln, 2000b, p.21)

3.2.1.4 The interpretive paradigms

In addition to the traditional, positivist and postpositivist approaches, a range of other alternative paradigms exist. Denzin and Lincoln (2000a) describe contemporary research paradigms as essentially falling into two main categories; firstly the "positivist, conventional modes of inquiry", and secondly the "interpretive forms of inquiry" (p.169). This second group comprises a range of broad, interpretive, post experimental, postmodern "new paradigms". These two main types of inquiry differ significantly in terms of their fundamental axioms defining their ontology, epistemology and methodology.

In these newer paradigms, the realist ontology is replaced with relativist approaches. Constructivism for example, proposes that instead of one single reality, there are "realities" which consist of multiple, intangible mental constructions that are dependent for their form and content on the individual persons or groups holding the constructions. Similarly, the epistemologies of the

newer paradigms are typically more subjectivist, for example seeing the investigator and the object-of-investigation as interactively linked and "findings" being literally created through this transaction, (Guba and Lincoln, 1994, p.110). Correspondingly, the methodologies can involve, for example, a dialectical approach between the investigator and the respondents in the inquiry. Given that newer paradigms no longer assume an objective worldview, these approaches reject the conventional positivist benchmarks of validity, reliability and objectivity. Instead, since research is a value-laden activity drawing upon varying constructions of reality, notions such as trustworthiness and authenticity are therefore more appropriate criteria.

3.2.1.5 Research designs associated with the paradigms

A broad variety of types of research designs are associated with the various paradigms. These are sometimes portrayed as a continuum, with rigorous design principles at one end, and emergent, less well structured directives on the other end. Positivist research designs emphasise the early identification and development of research question, and set of hypotheses, along with a choice of research site, establishment of sampling strategies as well as specifying methods of analysis (Guba and Lincoln, 1994). In comparison, post positivist and non-positivist designs involve less emphasis on the classical structures of formal proposals, well-formulated hypotheses, predetermined research strategies analytical procedures, and instead these models follow a "path of discovery" (Denzin and Lincoln, 2000a, p.200) .

While at the epistemological level, the range of paradigms continues to expand, and the distinctions between models continue to deepen, Miles and Huberman (1994) suggest that these apparent differences are tempered by the actual practice of empirical research. They note that, at the working level, researchers tend not to be "encamped in one fixed place along stereotyped continuum between "relativism and "post positivism" (p.5). Instead, researchers are more pragmatic and ecumenical, with the lines between epistemologies often blurred and overlapping. For them, the practice of research is more of a craft than a "slavish adherence to methodological rules", with each study calling for the researcher to "bend the methodology to the peculiarities of the setting" (p.5).

3.2.1.6 The Notion of "Qualitative" Research

The term "qualitative research" is not amenable to simple definitions as it does not simply refer to one specific paradigm, nor is it exclusive to one single methodological practice, (Denzin and

Lincoln, 2000b, p.6). Instead, the concept is perhaps best understood as an "umbrella term", which describes certain types of research methods, covering an array of interpretive practices (van Maanen, 1983, p.9; Guba and Lincoln, 1994, p.105). Qualitative research is multiparadigmatic, with a broad range of approaches utilising qualitative research methods and strategies (Denzin and Lincoln, 2000b). As a consequence, within the field of "qualitative research" there is an ongoing tension between the interpretive "new paradigms" and the more conventional positivist and postpositivist conceptions (Denzin and Lincoln, 2000b, p.7). Consequently, qualitative research is also not restricted to any one distinct set of methods or practices. Instead it is a "site" of multiple practices, with many methods and approaches included under the category of qualitative research (Denzin and Lincoln, 2000b, p.6)

Amidst this diversity though, there are some common features that do define qualitative research. The word "qualitative" itself implies an "emphasis on the qualities of entities and on processes and meanings that are not experimentally examined or measured... in terms of quantity, amount, intensity, or frequency" (Denzin and Lincoln, 2000b, p.8).

3.2.1.7 Features of Qualitative Research

Denzin and Lincoln (2000b) propose that two of the central characteristics that distinguish qualitative research are, a "naturalistic perspective", and an "interpretive understanding of human experience", (p.3). The "naturalistic perspective", refers to the fact that qualitative research addresses naturally occurring, ordinary events in actual settings. The situations are typically normal ones, reflective of everyday life of individuals, groups, societies, and organisations, as opposed to laboratory studies, which tend to be divorced from their context, (Miles and Huberman 1994). Linked with this is the second characteristic, the interpretive understanding of human experience. This is based on the premise that, in order to interpret or understand human activities, it is necessary to consider the meanings and purposes that people attach to their actions (Denzin and Lincoln, 2000b; Guba and Lincoln, 1994; Cresswell 1997). Miles and Huberman (1994) make the distinction that qualitative data are not so much about "behaviour" as they are about actions", which "carry with them intentions and meanings and lead to consequences" (p.10)

A central task for the qualitative researcher is therefore to identify the ways people in particular settings come to understand, account for, take action, and otherwise manage their day-to-day situations. The researcher attempts to capture the perceptions of local actors "from the inside", focusing on the emic, insider's point of view rather than the traditional etic, outsider perspective

(Guba and Lincoln, 1994, p.106). Qualitative researchers emphasise locating the meanings people place on events, processes and structures, and for connecting these meanings to social world (Miles and Huberman 1994, p.10). To get closer to this insider perspective, researchers engage in a process of "deep attentiveness, of empathetic understanding... and suspending or 'bracketing' preconceptions" (Miles and Huberman 1994, p.6), using such techniques as detailed interviewing and observation (Denzin and Lincoln, 2000a).

Human actions always occur in specific situations within a social and historical context, and this specific context then influences how actions are interpreted, by both insiders and the researcher as outsider (Miles and Huberman 1994, p.10). Context is therefore becomes critical for understanding the actions of people, and groups and organisations, and so a researcher needs to figuratively put "brackets around a temporal and spatial domain of the social world", in order to clearly define a setting and then and create a description of this (van Maanen, 1983, p.9; Denzin and Lincoln, 2000b, p10).

The researcher's role is to gain an 'holistic' overview of the context under study; that is, a systemic, encompassing, and integrated overview of its logic, its arrangements, its explicit and implicit rules (Miles and Huberman, 1994). In contrast to the abstract generalisations of quantitative research, qualitative researchers use a local grounded approach, with data collected in close proximity to a specific situation, as they "see this world in action and embed their findings in it" (Denzin and Lincoln, 2000, p.10). Qualitative research also typically allows qualitative investigators to describe the unfolding of social processes (van Maanen, 1983), offering "a far more precise way to assess causality in organisational affairs" in a particular setting (Miles, 1983, p.117, Miles and Huberman, 1994).

For these reasons, qualitative researchers seek to provide "rich descriptions" of the social world (Denzin and Lincoln, 2000b, p.10). Qualitative data, with its richness and holism, is seen as providing powerful insight into the human behaviour, revealing the complexity of situations, and providing "thick descriptions" that are vivid, nested in a real context (Miles and Huberman, 1994; Guba and Lincoln, 1994, p106)

3.2.1.8 Qualitative methods from a postpositivist perspective

When the features of qualitative methods are utilised in a postpositivist context, this creates a research approach which is based on several key assumptions. The approach assumes firstly that observers can report on their observations with objectivity, clarity and precision. In addition,

the research involves a real “subject”, or individual who is present in the world, and able to report on his or her experiences. Researchers can therefore blend their own observations with self-reports from these subjects, using methods such as interviews. This information, and particularly the verbal and written expressions of meaning given by the individuals studied, can function as “windows” into the inner lives of these persons, (Denzin and Lincoln, 2000b)

3.2.1.9 Reasons for conducting qualitative research in this paradigm

Quantitative and qualitative research methods are not mutually exclusive, but rather are complementary, with the differences “located in the overall form, focus, and emphasis of study” (van Maanen, 1983, p.10). The suitability of a method is dependent upon the specific issue under study.

The present study involves exploring a new area, where variables are not easily identified and theories are not yet available. The research question represents an attempt to build and develop theory in the area of grievances and individual-level employment disputes. From a post-positivist perspective, qualitative methods often represent the most appropriate strategy for this type of research (Miles and Huberman 1994, p.10). While such an approach is not consistent with the interpretive, post experimental, postmodern paradigms, it is strongly congruent with the positivist, conventional modes of inquiry. In seeking to capture the ‘big picture’ of employment relationship problems (Bemells and Foley, 1996), this approach serves as an essential preliminary step in creating a framework, from which subsequent research can potentially proceed to investigate specific sub-areas in detail, developing and testing hypotheses. The qualitative approach also provides a detailed view of the topic, and studying individuals in their natural setting.

3.2.2 The Strategy of inquiry - the Case Study

3.2.2.1 Selecting a research strategy

The next question in Denzin and Lincoln's (1994) model of research design concerns the selection of the “strategies of inquiry” or research strategy, to be used in conjunction with the theoretical paradigm. Denzin and Lincoln (2000) define a research strategy as the set of “skills, assumptions and practices employed, putting paradigms into motion in the empirical world”, and

which "implement and anchor paradigms in specific empirical sites" with specific methodological practices (p.22).

Yin (2003) proposes that the selection of an appropriate research strategy is dependent upon three conditions. The first of these is the type of research question. As indicated, the present study was largely of an exploratory nature, investigating the comparatively little-researched issue of individual-level employment disputes in New Zealand. Such exploratory work constitutes one type of research question where case studies are particularly appropriate for capturing the breadth of the phenomena. The second and third conditions are the degree of control that an investigator has over actual behavioural events, as well as whether the focus is on contemporary as opposed to historical phenomena. As a research strategy, the case study approach has a distinct advantage, when an exploratory question is being asked "about a contemporary set of events over which the investigator has little or no control", as compared to laboratory experiments where behaviours can be manipulated (Yin, 2003, p.9). The present study was investigating contemporary phenomena where the focus of the research required a field-based approach rather than a simulation, so therefore the present study was therefore potentially well suited to a case study approach.

3.2.2.1 Definition of a case study

The definition of the case study is however open to a number of differing perspectives, particularly since the case study approach is used in conjunction with a variety of paradigms, and in order to accomplish various aims, ranging from providing a description, to testing, or even generating, theory (Locke, 2001, Merriam, 1998). One central concept in the case study approach is the identification of "the case", and Stake (2000) emphasises this principle by proposing that a case study is not so much a "methodological choice but the choice of what is to be studied" (p.435). According to this perspective, a case is a "functioning specific", a "bounded system" and an "integrated system" with patterned behaviour, which can involve factors such as the physical, psychological, cultural, and other forces (Stake 2000, p 436).

A key feature of the case study is that, unlike an experiment which deliberately divorces a phenomenon from its context, the case study is "an empirical inquiry that investigates a contemporary phenomena within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident" (Yin, 2003, p.13). The task of "situating" the case is therefore a significant aspect (Cresswell, 1997). In this sense, the case study can build on the context-sensitive nature of qualitative research in general. The case study inquiry also copes

with what Yin (2003) refers to as the "technically distinctive situation in which there will be many more variables of interest than data points, and...relies on multiple sources of evidence" (p.13), and as a consequence case studies can provide rich, empirical descriptions of particular instances of a phenomenon, often drawing on a variety of data sources to provide a detailed in-depth picture (Cresswell, 1997, Eisenhardt and Graebner, 2007). As a research strategy which focuses on understanding the dynamics present within single settings (Eisenhardt 1989a), the case study allows an investigator to "retain the holistic and meaningful characteristics of real-life events" (Yin 2003, p.2).

3.2.2.3 Types of case study

A variety of types of case studies exist, with a range of classification systems. One distinction is based on the focus or interest of the study, which is associated with differing types of methodological orientation (Stake 2000). An *intrinsic* case study focuses on a single case, or single instance of a process, which is examined in detail as the case itself is of interest. It is studied in order to provide better understanding of this particular case, rather than to "come to understand some abstract construct or generic phenomenon"; the purpose is not to build theory (Stake, 2000, p.437). In contrast, an *instrumental* study examines a particular case mainly to provide insight into an issue or to (re)draw a generalisation (Stake 2000). In this type of investigation, the specific case itself is of secondary interest, and it is chosen in terms of its ability to advance understanding of the broader theoretical issue. As an extension of this, a *collective* case study is an instrumental study extended to several cases, which are studied in order to "investigate a phenomena, population, or general condition" (Stake, 2000, p.437), and are selected in terms of their ability to lead to an improved understanding of a still larger group of cases.

3.2.2.4 The use of literature: deductive and inductive approaches

The diversity of approaches within the broader field of qualitative research is particularly evident with regard to the use of extant literature, with traditions occupying various points along a continuum in terms of the extent to which they use existing theory before the study to guide their research or frame questions. At one extreme are the more traditional deductive, positivist approaches which seek to test hypotheses drawn from the existing literature. In contrast, at the other extreme, inductive approaches seek to develop "grounded theory" through a process of "discovery" with an accompanying rejection of *a priori* theorising (Locke, 2001). This desire to

avoid imposing a framework at the outset however, is sometimes seen as being "in tension with the need for clarity and focus", and Miles (1979) warns that without a framework an "incoherent, bulky, irrelevant, meaningless set of observations may be produced" (Miles 1979, cited in van Maanen, 1983, p 119). As a consequence, to avoid the real possibility of being overwhelmed by the sheer volume of unstructured data, a number of organisation and management scholars take a more pragmatic, middle ground approach, and begin their analysis with some prior specification of existing theory to narrow and direct their analysis. That original theory is, however, subject to change based on the data gathered (Locke 2001, p.102).

Similarly, among case study approaches there is also considerable variation. Yin (2003) for example, specifies a prior review of the literature in order to develop sharper and more insightful questions, and his definition proposes that case study research "benefits from the prior development of theoretical propositions to guide data collection and analysis" (pp.13-14). In contrast, with exploratory studies however, propositions can be replaced by the development of a clear statement of purpose. Some researchers explicitly utilise case studies as part of an inductive approach, using cases as the basis from which to develop theory (Eisenhardt and Graebner, 2007). This approach is most appropriate in unexplored research areas or during the early stages of research on a topic, when little is known about a phenomenon or current perspectives seem inadequate, as it does not rely on previous literature (Eisenhardt, 1989a). The process involves using one or more cases to create theoretical constructs, propositions and/or midrange theory from case-based, empirical evidence.

3.2.2.5 Building theory from cases

The use of such an inductive approach is not only an end in itself, to the exclusion of other approaches though. Inductive theory building from cases is viewed as "one of the best (if not the best) of the bridges from rich qualitative evidence to mainstream deductive research" (Eisenhardt and Graebner, 2007, p.25). Since it is a theory-building approach that is deeply embedded in rich empirical data, building theory from cases is likely to produce theory that is accurate and interesting, and furthermore the resulting theory can subsequently be tested in a deductive manner (Eisenhardt and Graebner, 2007).

In this mode, the ideal is for theory building research to begin "as close as possible to the ideal of no theory under consideration and no hypotheses to test" (Eisenhardt, 1989a, p.536). This ideal however, is recognised as often being impossible to achieve, and instead the approach permits investigators to, for example, formulate a research problem and possibly specify some potentially

important variables, with reference to extant literature at the outset of the process (Eisenhardt, 1989a).

A central aspect of building theory from cases is replication logic (Yin 2003). Each case functions as the equivalent of a distinct laboratory experiment which can stand on its own, and so does not purport to be a statistical "sample". Multiple cases are therefore discrete experiments, similar to a series of related laboratory experiments, which serve to expand and generalise theories through a process of analytic generalisation, rather than statistical generalisation (Eisenhardt 1989a, Yin 2003)

3.2.2.6 The present research: a theory building case study approach

As indicated, the use of a case study approach is particularly suited for addressing the present study's research question and goals. The strong emphasis that case studies place on conducting an investigation within its real-life context is of considerable importance for this specific phenomenon, with the highly interrelated nature of the multiple parties involved and the potential influence of numerous situational factors. The type of detailed in-depth picture that a case study can provide, capturing the full nature of the context in which the action unfolds, corresponds closely to the desired outcomes of the research.

The "case" was defined as each incident of an individual-level employment relationship problem (IERP), and hence was essentially an event or process (Miles and Huberman, 1994). Based on the definition of an "individual-level employment relationship problem" adopted for the research, a case typically involved all of the parties to that particular individual-level employment relationship problem, including for example the employee, the supervisor and other representatives of the employer, union representatives, lawyers and other advocates, and a mediator. Cases were selected for their instrumental value, in terms of their ability to advance understanding of the broader theoretical issues. Multiple cases were used creating a collective study, so as to offer a deeper understanding of the processes and outcomes, and offering the potential to investigate locally grounded causality (Miles and Huberman, 1994).

Given that the research question itself is highly significant, yet existing research and theory did not adequately address the issue, an inductive approach was purposely adopted, seeking to build theory from the case studies (Eisenhardt and Graebner, 2007). In the very early stages of its design, the study followed the example of previous New Zealand literature by framing the question simply in terms of a local legal/historical perspective. As the study progressed however

this expanded to include the wider international grievance literature, and particularly the social science theory associated with the North American grievance literature, as covered in the present literature review. A distinctive feature of this “grievance literature” however is that it does not constitute a single theoretical model, but rather provides a background of a range of approaches to addressing the overall phenomenon of grievances (individual-level employment relationship problems).

Overall then, the present study commenced from an inductive perspective without adherence to any particular predetermined theory. The study sought to investigate what actually occurs in the New Zealand situation, rather than to apply or test existing theory; the extant literature served solely to sharpen theoretical sensitivity, rather than to direct the study (Siggilekow, 2007). While portions of theory did exist, it was still possible to hold this in abeyance (Locke, 2001, Suddaby, 2006), especially since the existing theory was heavily imbued with the procedural and institutional frameworks of other jurisdictions and did not readily transfer to the New Zealand situation.

3.2.3 The methods used for collecting and analysing empirical materials

The final question in Denzin and Lincoln's (1994) model of research design concerns the selection of the methods that will be utilised for collecting and analyzing empirical materials, as related to the theoretical paradigm that is adopted.

3.2.3.1 Preliminary design and access

Negotiating access is a recurrent problem with studies into individual-level employment disputes and grievances (Bemells and Foley, 1996; Knight & Latreille, 2000), and as a result traditional approaches have often tended to focus on more easily accessible archival data from unions or employers (Lewin, 1987, Lewin, 1988), or public records of formal proceedings (McAndrew 1999, 2000, 2001).

Unlike the earlier New Zealand Department of Labour reports (Department of Labour, 2000, 2002a), a distinctive feature of the present study was that it sought to locate the combined set of parties associated with a particular individual-level employment relationship problem (case). That is, the study aimed to access the employer and the employee, along with the other associated

parties involved in the *same* specific problem, rather than simply locating groups of employers and groups of employees. This approach was intended to allow analysis of each separate case and the processes involved in that problem, as part of a case study approach.

In preliminary planning for the current research, discussions were held with a range of groups including trade unions, employers' associations, mediators and academics. These discussions highlighted the difficulties associated with attempting to locate and interview a full set of parties after an employment relationship problem had occurred. In general, the parties could frequently be reluctant to discuss the issues with an outsider. This issue would be heightened if a settlement had been reached, especially through mediation, as the parties could be bound by strict confidentiality provisions.

It was suggested that employers would be reluctant to allow access to the workplace, and in situations where employees remained with their employer after an individual-level employment relationship problem, those employees would be unwilling to risk reviving areas of contention between themselves and their employer. Similarly, situations where the employee had left the company would also be problematic as it would be difficult to locate employees once they had departed. Overall, it would be quite a challenge to firstly identify situations where all the parties to a problem could be located at the same time, and secondly, even if a suitable place or occasion was identified there would potentially be a number of obstacles to gaining access to that 'place'.

One option was to use trade unions as an access point since union representatives would generally be dealing with problems on a reasonably regular basis, and across a number of employing organisations, thus potentially offering the opportunity to sample a wider range of cases then could be obtained through a single employer. However, such an entry point could be perceived as being somewhat partisan and would potentially create barriers to obtaining the co-operation of employers. Furthermore it would have made the study very union-focused, restricting the "case" solely to individual-level employment relationship problems that were handled by trade unions.

Another significant issue that needed to be addressed in the research design was potential bias that can stem from impression management and retrospective sensemaking during interviews (Eisenhardt and Graebner, 2007). Collecting post hoc accounts some time after a dispute has been resolved may not always provide accurate data about what occurs and why, as the accuracy of recollection may diminish, and the parties may also retrospectively engage in face-saving in the subsequent "processed" accounts that they furnish (Harrison, 2003). These issues can however be addressed through several data collection approaches intended to limit such

bias. The use of real-time, rather than retrospective cases, can instead capture participants' "raw" accounts of events close to the time of their actual occurrence and so and minimise the extent to which participants engage in retrospective sensemaking. In addition, using real-time cases can introduce the possibility of incorporating direct first-hand observation by the researcher, providing a further, independent perspective rather than simply relying on accounts from informants. At another level, the use of a broader range of informants such as the wider group of parties to an employment problem who can view the phenomenon from diverse perspectives (rather than simply the employer or employee), can also assist in reducing these forms of potential bias (Harrison, 2003; Eisenhardt and Graebner, 2007).

Overall then, the desired "profile" of a situation for accessing individual-level employment relationship problems was;

- (a) a place or occasion where both the employer, and the employee, associated with a particular problem could be reached, as well as a range of other parties involved in the particular case
- (b) a real-time, rather than retrospective situation, especially if this afforded the opportunity for additional data gathering options such as direct observation

One very desirable situation which could potentially satisfy these conditions was to access the parties at the time that they entered into mediation with the Department of Labour's mediation services. This would have the added advantages of providing a neutral site away from the workplace, and it could also involve the researcher while the employment relationship problem was still in progress. Working against researcher access however, was the highly confidential nature of mediation. A number of approaches were made to the Department of Labour but all of the initial requests were unsuccessful; however in late 2004 a brief opportunity presented and approval was granted for research to occur.

The primary sampling decision in the research was therefore the choice to access cases through the mediation situation, as this provided a very rare and valuable opportunity to gather data of this kind. The quality of the data would potentially be considerably greater than that obtained through other means, for the reasons outlined earlier.

3.2.3.2 The data gathering process

A series of meetings was held with mediation staff to gain their input into planning the research. The mediation staff handled two main types of cases that were directly relevant to the research.

The first involved disputes over situations where employment had already been terminated, and while these made up the bulk of the mediation caseload, they were of lesser value for research purposes. In those cases, the actual processes that had led to the termination of the relationship would usually have occurred much earlier, so that parties would provide only retrospective reports, and the mediators advised that by the time the parties reached mediation, the parties' focus would typically have moved on to arguing about compensation. In contrast, cases where the employment relationship was still ongoing at the time of reaching mediation, ("ongoing cases") provided real-time cases which had the greatest potential for providing insight into processes as they were happening. These were therefore selected as the target group of cases. As a consequence, the "case" was effectively further defined and bounded as being situations where the parties accessed the mediation services of the Department of Labour, and the employment relationship was ongoing at that time.

Preparation and trialling of the process for data gathering included both group meetings and interviews with mediators, attending mediation cases, and preliminary interviews with parties. The process that was finally decided upon, in conjunction with the mediation service, involved several steps, as follows;

Step One: initial identification of potential cases by mediation staff

Mediation staff monitored their incoming caseload for ongoing cases which would be suitable for the research. For reasons of confidentiality, when a potential case was located mediation, staff made the initial approaches to each of the parties involved in the case, explaining the nature of the research and seeking the parties' preliminary consent to have the researcher involved. Information sheets were given to the parties to explain the nature of the research and what consent involved.

At this stage, the preliminary request was simply for the parties to (a) allow the mediation staff to notify the researcher of the case, and (b) to allow the researcher to attend mediation. Parties were advised that they would subsequently be invited to take part in interviews, after the mediation, however that issue would form a subsequent request which the parties could choose whether or not to pursue. If preliminary consent was obtained from all parties, mediation staff would then advise the researcher of the mediation date.

Step Two: observation of the mediation

Prior to the commencement of mediation, the mediator would consult the parties to reconfirm their consent to have the research attend as an observer. On several occasions, one or more of the

parties withdrew their consent at this point, with the result that access was denied to the potential case. Where consent was granted, the researcher would observe the mediation, accompanying the mediator as he or she worked with the parties, both jointly and in caucus. The mediation session typically lasted several hours and could continue for up to one day, however formal settlement was reached in all of the cases.

Step Three: interviews with each party

Towards the conclusion of the mediation session, the researcher would invite each of the parties to proceed to the next stage, which consisted of a one-to-one interview. Given the goal of using "real-time" data gathering, interviews were scheduled as soon as possible following the mediation. This was also necessitated by the practical reality that the parties were often only available for a short time immediately following the mediation session. Many of the parties had travelled from other locations to attend mediation and had to return or continue travelling, and furthermore, in a number of instances, the settlement included a termination of employment with the employee leaving the area within a short timeframe.

3.2.3.3 Sampling

A total of seventeen cases were initially accessed in this manner. With two of these cases, the researcher attended the full mediation session, however the cases subsequently proved unsuitable for the research; one involved sensitive issues of bullying and harassment which emerged during mediation, and a second case moved on to legal proceedings based on company law, thus changing the nature of the issues and the parties' willingness to participate. This left an overall total of fourteen cases. Miles and Huberman (1994) suggest that the choice of the number of cases to be used in a multiple case study depends partly on how rich and complex the cases are; with what they term "high complexity" cases, a study with "more than fifteen cases or so can become unwieldy" (p.30). Given that the present study involved multiple parties for each case, and frequently included periods of direct observation, the number of cases was kept to fourteen, in line with their recommendation.

The informants came from throughout New Zealand, covering larger metropolitan areas as well as smaller provincial centres. In particular, mediators, advocates and employer representatives often came from other parts of the country.

While the method of accessing cases held high conceptual value, there were several practical limitations which affected sampling. Firstly, as mentioned, the "ongoing" cases represented only

a subset of the mediation caseload, and so this offered a small range of cases to sample from. Secondly, given the need to have complete agreement of all parties involved in a case, (typically up to five parties), and the fact that parties could be reluctant to have an outside observer present at such a stressful time, this further reduced the number of potential cases available. Thirdly, a much broader issue was that ongoing cases were treated with some urgency by the mediation service when allocating mediation times, and in effect this meant that the researcher needed to be free to attend cases at short notice in order to access the limited number of cases that occurred. In practice therefore, data gathering was only feasible during the period from November to February when the researcher could be available full-time.

The combined effect of these factors was that with only a limited number of cases, sampling was constrained, being determined largely by availability. Within that range however there were some choices and in those situations sampling was partly guided by theoretical sampling as well as being assisted by input from "key informants" from within the mediation services (Miles and Huberman 1994).

3.2.3.4 Data sources

The research therefore utilised several sources of data, consistent with a postpositivist approach (Denzin and Lincoln, 2000b; Guba and Lincoln, 1994). The first, and most significant of these, were the in-depth interviews. The interview questions were developed and refined through several trials using a range of parties. As this was exploratory research where the parameters and dynamics of the social setting were not fully established, low levels of initial instrumentation and open-ended approaches were appropriate, and consequently a semi-structured interview format was followed, asking informants to recount the stages and their experiences, using a basic common set of queries as well as additional questions to explore issues raised by the informants or from the observations (Yin, 2003; Miles and Huberman, 1994). This was consistent with an inductive approach, by permitting participants to speak in their own way and to extend their responses at will, while still addressing the same general questions in closely similar ways (Harlos and Pinder, 1999, Miles and Huberman, 1994).

The interviews typically occurred at either the researcher's base, or the informant's home or workplace. In some instances however, when an informant came from another part of the country and departed immediately after mediation, the interview had to be conducted by telephone; seven interviews occurred in this manner. Issues that were observed during the mediation sessions could be followed up in interviews with each of the parties. The same process was followed for

each case, interviewing the same set of parties, so as to ensure that this provided comparable data for cross-case comparisons.

As the research progressed, issues emerged which required additional data sources outside of the specific mediation cases and this resulted in interviews with a range of additional informants such as representatives of employer organisations, lawyers and advocates, union officials and HR managers, as part of a process of theoretical sampling (Locke, 2001; Yin, 2003; Miles and Huberman, 1994).

The second source of data consisted of the observations from attending the mediation sessions, which supplemented the interview data. These were recorded by the researcher as handwritten notes both during the mediation and immediately afterwards. Additionally, as a third source, a range of documentary materials were also used. These documents were provided by the informants and included pre-mediation correspondence between the parties, submissions which had sometimes been prepared for mediation, as well as copies of the employing organisations' internal procedures for dealing with individual-level employment relationship problems.

This use of multiple sources is a major strength of case studies (Eisenhardt, 1989a) and forms one of Yin's (2003) key principles of data collection. Utilising diverse sources permits data triangulation, collecting different kinds of data bearing on the same phenomenon (Jick, 1983, p.136) and this allows the "multiple perceptions to clarify meaning, verifying the repeatability of an observation or interpretation" (Stake 2000, p 443). Yin (2003) refers to this as creating "converging lines of inquiry" (p.98), so that the varied sources offer multiple measures of the same phenomenon, with the result that this enhances the validity of any conclusions (Yin 2003).

3.2.3.5 Data analysis

Locke (2001) points out that while access issues seemed unproblematic to an earlier generation of researchers, with Glaser and Strauss for example apparently enjoying unrestrained and long-term access to their research sites, for most contemporary organisation scholars however, this can be a problematic issue. The present study had the opportunity to access relevant data that was not frequently available, however the downside was that this brought variable access to different actors and events (Miles and Huberman, 1994). Due to the fact that cases were difficult to obtain, it was necessary to gather the data rapidly, as and when cases were available and consequently this constrained the ability to pace data collection and analysis (Locke, 2001, p.111). The full details of the analytic processes will be discussed in the following chapter.

Chapter Four: Data Analysis

4.1 Compatibility with the Research Strategy

4.1.1 Introduction

The selection of an appropriate method of analysis is heavily dependent upon the nature of the actual research strategy that is employed. For this reason, within the present study, it is necessary to firstly return and closely examine the precise research strategy in detail, specifically exploring the important question of whether the study involves multiple cases, or alternatively whether it is a single case (albeit with several sets of data), as this will have a major bearing on the options available for data analysis.

Once this has been established, the discussion moves to exploring the range of analytic methods which are potentially suitable. The process involves seeking to ascertain the critical features of the present study, and then working from these to identifying the specific method of analysis which best matches the needs of the study.

4.1.2 Single case or multiple case study?

In determining whether a study is a single case, or multiple case design, it is necessary to commence by revisiting the precise definition of what constitutes a "case", as this is the fundamental unit of analysis in the study. While appearing simple, the issue is perhaps clouded by the variety of definitions that are offered in the literature. In the definitions cited earlier, Yin's (2003) definition for example, focused on the process of case study research, whereas Stake's (2000) definition focused on the unit of study, emphasising the "specific", and "bounded" aspects of the case, as part of an integrated system (page 436); elsewhere, (Stake, 2006) describes the case as "a noun, a thing, an entity" (p.1). Reviewing a variety of definitions, Merriam (1998) similarly concluded that "the single most defining characteristic of case study research lies in the limiting the object of study, the case", so that the case is seen as "a thing, a single entity, a unit around which there are boundaries" (p.27).

Turning to the distinction between multiple and single case studies, Stake (2006) reiterates the theme that in a *multiple* case study "each of the cases in a project is a specific thing... it is an integrated system" (p.2). However, in a multiple case study, the single case is of interest because it belongs to a particular *collection of cases* which share a common characteristic or

condition and are "somehow categorically bound together" (pp.5-6, emphasis in the original). Stake (2006) refers to the group, category or phenomenon that is being studied, as a "quintain" (p.6). It is this "collective target", which the researcher seeks to understand, and so forms the focus of multi-case research¹⁵.

In contrast, *single* cases are generally selected because they are "unusually revelatory, extreme exemplars, or opportunities for unusual research access" (Eisenhardt & Graebner, 2007, p.27). Among the prominent examples are an extreme case of lost sensemaking in a wilderness fire-fighting disaster (Weick, 1993), and a study of the New York Port Authority, a single organisation, where the researchers had unusual access through friends (Dutton and Dukerich, 1991). In general, the principle seems to be that a single case is characterised by the constrained focus on a single example of the organisation, category or phenomenon¹⁶.

4.1.3 Replication logic

Another distinction between multiple and single cases relates to Yin's (2003) notion of "replication" logic which serves as a premise for the functioning of multiple case studies. This proposes that each case in a multiple case study serves as a distinct experiment that stands on its own as an analytic unit. Like a series of related laboratory experiments, multiple cases are discrete experiments that serve as replications, contrasts, and extensions to the emerging theory (Yin 2003). This is quite different from the "sampling logic" commonly used in surveys, which requires a statistical procedure for selecting a specific subset of the entire "universe" in order to produce a statistically representative sample, which is assumed to reflect the entire universe or pool (Yin 2003, p.48). Instead, in a multiple case study each individual case is selected in a similar manner to a laboratory investigator selecting the topic of a new experiment. Each new experiment can be used to evaluate the hypotheses and propositions that have been developed from the existing research, serving to either confirm or disconfirm those propositions. This replication can take several different forms, including "literal replication", where each case is expected to predict similar results, or alternatively "theoretical replication" where contrasting results are predicted, but for "predictable reasons" (Yin, 2003, p.47). The case study approach

¹⁵ While proposing these distinctions however, Stake (2005) notes that actual studies and authors often do not fit neatly into the categories, with debates regarding the classification of specific studies. This issue is discussed further below.

¹⁶ While both Eisenhardt & Graebner 2007, and the Dutton and Dukerich 1991 article itself refer to this as a case study of a single "extreme case" organisation, Lee et al. 1999 however do not class the research as a case study, but rather an "in-depth interview".

thus involves "analytic generalisation", rather than the "statistical generalisation" involved in survey research (Yin, 2003, p.32).

An advantage of multiple-case studies is that while single-case studies can richly describe the existence of a phenomenon, multiple-case studies typically provide a stronger base for theory building (Eisenhardt and Graebner, 2007, Yin, 2003). Using the analogy of laboratory experiments, the theory is better grounded, more accurate, and more generalisable when it is based on multiple case experiments. The multiple cases provide comparisons which can clarify the extent to which a finding is replicated by several cases or lead to further refinement of the application of the theory. The fact that any propositions are more deeply grounded in a variety of types of empirical evidence also assists multiple case studies to create more reliable models (Bourgeois and Eisenhardt, 1988, Eisenhardt and Graebner, 2007).

Given that this replication logic provides the rationale for multiple case designs, one significant implication therefore is that the cases used in a multi-case study should contribute to this process of theoretical replication. Each individual case within the wider study consists of a "whole" study, in which convergent evidence is sought regarding the facts and conclusions for that case. In addition however, in the next stage of the analytic process, each case's conclusions then need replication by other individual cases. The designs need not necessarily be complex though, as they can range from the simple, literal replications to more complicated theoretical replications.

4.1.4 The debate

While these principles are useful features for distinguishing between single-case and multiple case research, the distinction is not entirely straightforward however, with writers even disputing the classification of a number of well-known classical studies. Dyer and Wilkins for example, assert that Whyte's *Street Corner Society* (1943, cited in Dyer and Wilkins, 1991) is a single case, however Eisenhardt strongly refutes this, arguing that although Whyte examined a single setting, the study was in fact a multiple case study as it involved the multiple case logic of replication and extension, using comparisons made across multiple gangs. Similar rationale is used to dispute the classification of several other classic studies (Eisenhardt, 1991; Dyer and Wilkins, 1991). In essence, the disagreement is largely a matter of definition, with writers such as Dyer and Wilkins

(1991) focusing on the "single" nature of the overall organisation or site, whereas Eisenhardt focuses more on the comparative processes occurring within the research¹⁷.

4.1.5 Embedded and holistic cases

An additional, separate feature of case studies is the question of whether the case is "embedded" or "holistic". A case study may involve "cases within the case", as embedded cases or mini-cases (Stake 2005, p. 451). This type of "embedded" case study contains more than one unit of analysis, since within that case, attention is also given to a subunit or subunits. In contrast, a "holistic" design would only examine the global nature of the organisation. As an illustration of an embedded single case study, Yin (2003) cites a classical case study by Lipset, Trow and Coleman (1956 cited in Yin 2003), where one single organisation, International Typographical Union, was investigated. Within this there were several subunits, providing various levels of analysis within the organisation, ranging from the individual member through to "shops" and local structures, as well as the organisation as a whole.

In some instances, an investigation into a particular quintain, for example an educational programme, could be approached as either a single case study, or as multi-case research, (Stake, 2006). The two options would however have significant implications in terms the nature of the actual study. Firstly, if the research was framed as a *single* case study, but with several embedded cases, then the study of each mini-case would be constrained as, it would only be considered in terms of its representation of, or relationship to, the main programme. The research would be designed to study the whole programme with much attention given to aspects such as its central administration; its contexts; and the relationships amongst the policymakers, funders and other parties. Alternatively, if the research was designed as a *multi*-case study, then the individual cases would be studied in order to learn about their "self-centering, complexity, and situational uniqueness", and each case could be understood in-depth (Stake, 2006, p.6). The central administration matters would be studied to some extent, but the local administration and operation of the cases would be deeply studied. Overall then, there is a subtle but very significant change of focus between the two options; a multi-case study of a programme is "not so much a study of the quintain as it is a study of the cases for what they tell us *about* the quintain" (Stake, 2006, p.7 emphasis added).

¹⁷ With contemporary cases there is also some divergence of opinion. Galunic and Eisenhardt (2001) for example, is classified by some as a single case since, at face value, it examined organizational adaptation in a single exemplar firm. The study itself however describes its research design as "based on multiple cases of the focal event, charter change", where the unit of analysis was "the charter gain experienced by a division", with the study covering 10 divisions within the overall organisation (p.1230).

4.1.6 The present study

This then leads to the question of whether the present study constitutes a single case, or a multiple case study. There are a number of elements to this. Firstly, each separate individual employment relationship problem ("employment problem") would appear to satisfy the definition of a case, being specific, bounded and an integrated system (Stake, 2000). Secondly, each "employment problem" can form a "whole" study in its own right, leading to facts and conclusions. From the early stages of the project, memos consistently noted the way in which each "employment problem" represented a system in its own right, a "complex entity located in its own situation" (Stake, 2006, p.12), rather than parts of a broader common phenomenon. Furthermore, the conclusions from the study of each "employment problem" can be subject to replication by other "employment problems", thus contributing to the process of theoretical replication and extension in a way that is consistent with the functioning of cases within a multiple case study.

In terms of sampling, although the selection of the separate "employment problems" was determined largely by availability, nonetheless from the outset of data gathering, there were marked differences between the various "employment problems" and this drove the search for other examples. Variation did exist among the employment problems, even though the degree of selection and control may be less than in some other situations. While variation among the examples is useful, as mentioned earlier, replication logic permits a variety of types of theoretical sampling. Literal replication is a valid option, while Yin (2003) notes that variation in the contexts of cases is a relevant and useful aspect. Interestingly, Stake (2005) suggests that with regard to case selection, while issues such as balance and variety are important, the primary criterion for selecting cases can be the extent to which a case offers "opportunity to learn". This is defined in a very pragmatic sense, referring to aspects such as access (the most accessible case), or the case that the researcher can "spend the most time with" (Stake, 2005, p.451), and this largely represents the situation with the current study. Thus, the data gathering that has occurred, involving separate "employment problems" does seem to constitute separate cases within a multiple case study. As added support for this, the purpose of the final analysis is not to pool results, but rather to create separate cases to compare, and from which to create an overall cross-case analysis. This latter aspect would also be very much consistent with Eisenhardt's (1991) process-based criteria for identifying multiple case studies.

The present study clearly has embedded units though, with each of the separate parties to a dispute creating an embedded unit, and hence a specific level for analysis. Within the wider

multiple case study, these separate units can provide comparisons across cases, for example comparing the functioning of the various advocates in each of the cases.

Overall then, it would seem that in terms of each of these criteria, there are strong and compelling grounds to establish that the present study is indeed a multiple case study. This premise therefore sets the foundation for selecting of the most appropriate method of analysis.

4.2 Analytic Methods

4.2.1 Options for data analysis

In designing this research, a range of potential analytic approaches were explored in detail. These included grounded theory (Glaser and Strauss, 1967, Locke, 2001, Strauss, 1987) , analytic induction (Johnson, 1994), content analysis, template analysis (King, 1994), case study approaches (Yin 2003, Stake 2006, Merriam 1998), as well as a range of supplementary techniques (Miles and Huberman 1994).

Throughout the development of the research, it became apparent that it would be necessary to select an approach that would be closely tailored to the particular needs of the present study. An initial option had been to use the analytic approach of grounded theory, as this was both the approach that I personally was most familiar with, and it also appeared to be the most widely utilised technique, being applied to a range of qualitative designs (Lee et al., 1999). Working against this however, were critical reports which suggest that while a large number of articles purport to use grounded theory, closer examination revealed that, even in the "major" journals, few studies genuinely matched the complete "spirit and intent" of grounded theory (Lee et al., 1999, Suddaby, 2006). More importantly, further exploration also revealed that this approach would in fact have had several limitations when attempting to address the very specific purposes of the current study.

In terms of research strategies, case study research has a number of distinctive features which can necessitate a customised approach to analysis (Eisenhardt, 1989a, Eisenhardt and Graebner, 2007, Merriam, 1998, Stake, 2006). The first of these is the fact that case study is "an intensive, holistic description and analysis of a single, bounded unit", and therefore "conveying an *understanding of the case* is the paramount consideration" in analysis (Merriam 1998, p.193, emphasis added). In the present study, given that it was increasingly evident that there were

important differences at the level of the individual cases, analysis would therefore require an approach which could capture this case-based perspective, rather than simply handling data in an aggregate form. Addressing this issue, Stake (2006) proposes that a central feature of multiple case studies is the ever-present tension between dealing with the details of the single case, while at the same time attending to the broader phenomenon or category that is being studied, a feature which he refers to as the "case-quintain dilemma" (p.7). Additionally, as mentioned earlier, within each case there were also there were multiple embedded units, and therefore the method of analysis would also need to preserve and address the distinctions relating to those units.

A second significant feature of case study research, and especially multiple-case studies, is that there is frequently "a staggering volume of data" (Eisenhardt, 1989a, p. 540), which poses its own difficulties for analysis. The present study included more than 700 pages of interview transcripts along with a range of other material, which would have posed a major issue for maintaining perspective with the line-by-line coding proposed by Strauss (1987). Accompanying this, a third feature of case studies is the diverse range of sources utilised, which may present what Merriam 1998 describes as "disparate, incompatible, even apparently contradictory information" (p.193), once more requiring a method which has the ability to distinguish between and reconcile these types of data.

At this point, it may be useful to briefly note that there are divergent views regarding the ideal number of cases for a multi case study. As mentioned earlier, Miles and Huberman (1994) propose a maximum of 15 "high complexity" cases. Eisenhardt (1989a) recommends between 4 - 10 cases, and Stake (2006) also recommends a similar number, suggesting that more than 15 are undesirable. The present study is therefore at the upper end of this range. This larger number of cases was accessed however, in order to capture the diversity present among the cases and to attempt to approach something of the "theoretical saturation" proposed by Glaser and Strauss (1967), where the incremental learning decreased as the phenomena has been seen before (Eisenhardt 1989a). As each case involved a number of embedded units, cumulatively this produced a large number of interviews (in excess of 70), leading to the large volume of transcribed interview information.

In terms of the present study, one additional, overriding feature is its inductive, theory-generating intent. This narrows the range of options considerably, and for this purpose one highly recognised method is the specific approach of Eisenhardt (1989a, 1989b)¹⁸ for theory building

¹⁸ The actual study cited is Eisenhardt 1989a, however the method is described in greater detail in Eisenhardt 1989b.

from case study research; which is recognised as "exemplary", and has become "the classic citation" for case study work (Lee et al. 1999, pp.169-170)¹⁹. Eisenhardt's distinctive approach to analysis draws together a number of well-recognised aspects of the theory-building process, and combines them into a customised approach for case study research. A core element is the "constant comparative method" from grounded theory (Glaser and Strauss 1967; Strauss 1987) which relies on continuous comparison of data and theory, emphasising the emergence of theoretical categories from evidence. Eisenhardt's approach also incorporates for example, the work of Yin (1984) regarding case study design, replication logic, validity and reliability, as well as the analytic techniques of Miles and Huberman (1984). In addition, in terms of case study approaches, Eisenhardt draws upon the work of a range of case study researchers who had adapted earlier methodological work to develop their own techniques for building theory from cases, (e.g. Gersick, 1988, Harris and Sutton, 1986), leading to the cross case analysis techniques developed by Bourgeois and Eisenhardt (Bourgeois and Eisenhardt, 1988). Thus approaches such as grounded theory form the principles which underlie the specific adaptation of those into the actual approach used for the analysis of multiple cases, and therefore are not identical to the standard grounded theory techniques.

4.2.2 An overview of Eisenhardt's method

An overview of the phases of Eisenhardt's model of analysis is covered below. As the model was only described in journal articles, this left a number of unanswered questions regarding specific details of its application. For this reason, as an additional measure, I reviewed a collection of the key, original studies cited in the Eisenhardt articles, in order to gain first-hand understanding of the actual procedures involved. These are presented in Table 3 and serve as illustrations throughout the following discussion.

¹⁹ Lee et al. (1999) review 20 years of qualitative research, focusing on "major" journals, and conclude that, in their judgment "Eisenhardt (1989) is exemplary" (p170). They cite Larsson and Lowendahl (1996) who in an independent assessment, judged the Eisenhardt (1989) study as "high" on authenticity (i.e. the extent to which the case report conveys genuine field experiences), plausibility (i.e. the extent to which the case report makes intuitive sense to the reader), and criticality (i.e. the extent to which readers are activated to re-examine their assumptions that underlie their work).

Table 3: Exemplars of inductive case study research

Study	Research Issue	Description of Cases	Data sources	Analysis
Gersick (1988)	What does a group in an organisation do, from the moment it convenes to the end of its lifespan, to create the specific product that exists at the conclusion of its last meeting? (Project groups in industries)	8 project groups (multiple case design)	<ul style="list-style-type: none"> • Observations of meetings (notes plus transcripts) • Interviews 	<p><i>Part (1): first four groups</i></p> <p>Read transcripts repeatedly to produce literal descriptions of meetings</p> <p>Searched the data for milestones - critical ideas and decisions in a team's processes of product development</p> <p>Created a "qualitative historical portrait" of each team's product evolution</p> <p>Searched data for themes of discussion, and patterns of behaviour, that persisted or changed - within each team</p> <p>Searched the 'histories' for <i>general</i> patterns <i>by</i> firstly identifying main points from each team (case), then forming hypotheses based on similarities and differences <i>across</i> groups, then returning to data to test & revise hypotheses;</p> <p>This suggested a (new) model – which was explored & refined in second stage</p> <p><i>Part (2): second set of four groups</i></p> <p>Constructed a project "history" of each team – creating condensed transcripts</p> <p>Used these "histories" in another iteration of theory building, testing propositions</p> <p>Described as operating "through the method of grounded theory" (p. 12)</p>
Gersick (1994)	A longitudinal study of a venture capital-backed start-up company – how an organisation regulated its development strategy	Single case, "exploratory study"	<ul style="list-style-type: none"> • Observations • Semi-structured interviews 	<p><i>Used methods developed for group histories in Gersick (1988)</i></p> <p>"Reduced" transcripts by making "detailed, literal abstracts of each transcript, with headings to summarise every topic discussed</p> <p>Scheme of codes developed (p.18) to "tag themes and statements of interest" - in order to identify and isolate statements relating to five main areas of concern; (a mixture of a priori and emergent),</p> <p>Developed data displays to assist in identifying key events and their causes;</p> <p>(1) a "company history" - timeline, drawn from statements about historical and current plans, events & discussions, arranged chronologically; (with reference links back to original descriptions)</p> <p>(2) how and when decisions were made for the two main parties – began with marginal observations and interpretations, which showed differing patterns for the two parties - then located all statements relating to time, and marginal comments, and "went over these...to identify themes", moving between data display and original transcripts</p> <p>Iterative approach, moving between data display and transcripts to test emerging hypotheses</p> <p>Described as "an exploratory study using grounded theory building"</p>

Study	Research Issue	Description of Cases	Data sources	Analysis
Bourgeois and Eisenhardt (1988)	A study of how executive teams make rapid decisions in the rapidly changing microcomputer industry	8 computer firms (embedded, multiple case design)	Traced the making of a strategic decision; <ul style="list-style-type: none"> • Documents • Interviews • Observation of meetings (only qualitative analysis reported here)	Team members' responses were combined into narratives, to construct; <ul style="list-style-type: none"> • combined "stories" of each decision, with timeline • overall "profiles" of each executive from descriptions • Preliminary hypotheses then developed Two researchers independently analysed data - then exchanged analyses <ul style="list-style-type: none"> • stories, profiles, and tabulations searched for patterns • pattern-search included (i) taking <i>pairs</i> and listing similarities and differences (ii) <i>categorising</i> firms x various dimensions (e.g. public v private, size etc) (iii) found variables which sorted the data into consistent patterns
Eisenhardt (1989b)	How executive teams make rapid decisions in the "high-velocity" microcomputer industry – and how decision speed links to performance	8 computer firms (embedded, multiple case design)	Traced the making of a strategic decision using; <ul style="list-style-type: none"> • Interviews • Questionnaires • Observation • Secondary sources 	<i>Similar to Bourgeois and Eisenhardt 1988</i> Combined information from individual team member accounts to create overall (a) "profiles" of executives, and decision climates, (b) "decision stories" with a timeline, showing critical points of decision times and processes Combined these analyses, then induced propositions, and tested them Tactics: search for propositions was assisted by taking pairs (similarities and differences), and categorising firms by variables of interest Tested propositions against data, and after many iterations between data and propositions, used existing literature to sharpen the insights Outcomes were a set of propositions Uses "methods for building theory" citing Glaser & Strauss (1967)
Harris & Sutton (1986)	To propose a theory about the functions that parting ceremonies serve, for displaced members and management of dying organisations and their parent organisations	"Parting ceremonies" in 6 "dying" organisations (studied eight closings)	Semi-structured interviews <ul style="list-style-type: none"> • Archival data 	<ul style="list-style-type: none"> • Focused only on the constant elements, present in all, or nearly all, ceremonies across a diverse sample of organisational 'deaths' • continually compared theory and data until developed adequate conceptual categories • comparing the emerging framework to evidence from the field and literature, then adjusting the framework in an "iterative approach... similar to the constant comparison method suggested by Glaser and Strauss" Drew on existing descriptions of how to generate theory, esp. Glaser and Strauss (1967), Mintzberg (1979), and Miles (1979)

Study	Research Issue	Description of Cases	Data sources	Analysis
Sutton and Callaghan 1987	To develop a grounded theory about the stigma that results when a company files for bankruptcy	4 computer firms	<ul style="list-style-type: none"> • Observations • Semi-structured interviews • Records (court records, correspondence and media) 	<ul style="list-style-type: none"> • The method entailed "constantly comparing data and theory until we developed adequate conceptual categories" (p. 411) • an investigator "travels back and fourth (sic) between theory and data, some initial ideas can be grounded in the evidence, others may be modified considerably on the basis of evidence, and still others may be abandoned for lack of evidence" (p. 411) <p>Built on Harris & Sutton's (1986) methods for identifying constant elements across cases</p>
Gallunic & Esienhardt 2001	How architectural innovation may operate within multi-business firms	One large corporation, but "multiple cases" - the unit of analysis was "the charter gain experienced by a division"	<ul style="list-style-type: none"> • semi-structured interviews • questionnaires • observations • company archives 	<ul style="list-style-type: none"> • Analysis began with "detailed written accounts and schematic representations of each charter gain process. • After constructing the case histories, we conducted within-case analyses, which were the basis for developing early constructs surrounding charter gains, • then cross-case analysis produced our working framework of the charter gain process" (p. 1232)
Zott & Huy (2007)	How entrepreneurs obtain resources for new ventures – the actions that entrepreneurs take	7 extreme cases - entrepreneurs	<ul style="list-style-type: none"> • interviews – entrepreneurs and stakeholders • supplementary data 	<p>Step (1) exploratory analysis, where the significance of "impression management" emerged, with "noticeable differences in the quantities and textures of accounts of impression management" (p. 77)</p> <p>Coded forms of "impression management behaviour", and compared the results to differences in outcomes</p> <p>Step (2) reanalysed data, looking at "symbolic action" as a subset of impression management</p> <ul style="list-style-type: none"> • set decision rules for classing an action as symbolic • discerned eight subcategories of symbolic action - then grouped these into four <p>Step (3) interviewed resource holders to explore more closely how symbolic actions influenced resource holders – to confirm assertions, examined the actual resource acquisition of the cases and related these to symbolic actions</p>

Notes:

Gersick (1988) and Eisenhardt (1989) are reported as "among the most highly cited pieces" in the Academy of Management Journal (Eisenhardt & Graebner 2007, p.25)

Gersick (1988) seems to use the words "group" and "team" interchangeably.

4.2.2.1 Analysing Within-Case Data

As the first phase, within-case analysis typically involves creating detailed case study "write-ups" for each case. Eisenhardt proposes that there is no standard format for these; they are often simply descriptions and there are "probably as many approaches as researchers" (Eisenhardt 1989, p.540). In the exemplar studies, the write-ups often combined information from diverse sources to create a summation of each case, and these were referred to in the studies as case "histories" (Gersick, 1988, 1994; Gallunic and Eisenhardt, 2001), or "profiles" or "stories" (Bourgeois and Eisenhardt, 1988; Eisenhardt 1989a). Such write-ups serve the function of dealing with the often enormous volumes of data, by making the researcher intimately familiar with each case as a stand-alone entity, and thereby discovering the unique patterns of each case, in preparation for cross-case comparison.

4.2.2.2 Searching For Cross-Case Patterns

The next stage consists of the search cross-case for patterns. Eisenhardt suggests a variety of tactics, each of which is intended to provide a structured approach and also guard against typical information-processing biases. One tactic, for example, is to select categories or dimensions, and from this to look for within-group similarities, along with inter-group differences. As an illustration, in their study of team decision-making, Bourgeois and Eisenhardt (1988) sorted the organisations (cases) into categories such as founder-run versus professional management, high versus low performance, and large versus small size. Similarly, Eisenhardt (1989b) sorted firms by the presence or absence of a counsellor to the CEO. Another option is to select pairs (or small groups) of cases, and then identify the similarities and differences between each pair, typically revealing subtle similarities and differences between the cases. Eisenhardt (1989b) for example used this tactic, selecting pairs of firms for comparison. One further alternative is to divide the data by data-source, for example analysing all of the interviews, then all of the observations separately; if a pattern derived from one source is corroborated by another source this triangulation strengthens the validity of the finding. As a variant, the data could be divided into groups of cases; Gersick (1988) for example looked firstly at student cases, before other cases.

4.2.2.3 Shaping Hypotheses

In Eisenhardt's model, the development of hypotheses and propositions is then achieved through systematically comparing preliminary themes and relationships with the evidence from each case, in order to assess how well or poorly it fits with case data. The central principle is the constant

comparison of theory and data, iterating toward a theory or model which closely fits the data. In the exemplar studies, the search for patterns and themes within-cases and across-cases lead to the development of preliminary propositions, which were then tested through comparisons with the data, as part of replication logic (Gersick 1988; Bourgeois and Eisenhardt 1988; Eisenhardt 1989a; Eisenhardt 1989b; Gallunic and Eisenhardt 2001).

The process of sharpening of constructs involves two stages. The first of these involves refining the definition of the construct, and then the second consists of building evidence which measures the construct in each case. Through the process of constant comparison between data and construct, the accumulating evidence from diverse sources gradually converges on a single, well-defined construct (Eisenhardt, 1989a, p.541). Overall, the theory-building process occurs "via recursive cycling among the case data, emerging theory, and later, extant literature." (Eisenhardt and Graebner, 2007, p.25)

4.2.2.4 Links with Literature

As the study progresses, the emergent propositions or concepts are then compared with the extant literature, and Eisenhardt makes the point that this can potentially extend to a broad range of literature. This sharpening of constructs involves two stages. The first of these involves refining the definition of the construct, and then the second consists of building evidence which measures the construct in each case. Through the process of constant comparison between data and construct, the accumulating evidence from diverse sources gradually converges to form the single, well-defined construct(s). Overall, the theory-building process occurs via "recursive cycling among the case data, emerging theory, and later, extant literature" (Eisenhardt and Graebner, 2007, p. 25). Among the studies, Eisenhardt (1989a) produced a set of propositions which differed significantly from the findings of other, earlier studies. Similarly, the highly cited Gersick (1988) study originally developed from a discovery that project groups did not progress through the series of stages predicted by traditional group development models, and eventually lead to Gersick's new model which drew from two very different streams of literature, one concerning adult midlife transitions, and the other involving strategic transitions within organisations.

4.2.2.5 Reaching Closure

The choice of when to conclude the research is guided firstly by the criteria of theoretical saturation; that is, the point at which incremental learning is minimal because the phenomenon has already been seen and captured. In addition, several of the studies also discuss their assessment of the strength of the relationship that is finally attained, between the study's propositions and the data. Unlike

quantitative studies where there are standard statistical tests to evaluate the strength of a relationship, qualitative theory-building research instead requires that the researcher(s) apply their own judgement of the strength and consistency of relationships within and across cases (Eisenhardt 1989a). Sutton and Callaghan (1987) for example, state that the conceptual perspective they advance "fits well with the qualitative evidence - but it does not fit perfectly" (page 412). Similarly Eisenhardt (1989b) reports that "as in deductive research, the propositions fit the evidence but did not perfectly explain the cases" (p.548).

4.2.3 Relationship to Other Models

4.2.3.1 Multiple Case Study Approaches

Eisenhardt's model has clear parallels with the widely recognised two-stage analytic sequence proposed by other writers for multiple case studies (Merriam 1998; Stake 2006). Merriam's (1998) model for example, firstly involves within-case analysis where each case is treated as "a comprehensive case in and of itself" (p.194) and analysed as a single case, followed by cross-case analysis which seeks to build a general explanation. The utilisation of grounded theory principles is also clearly evident in Eisenhardt's model. The development of propositions results directly from the very obvious use of the constant comparative method, whereby initial propositions are constantly developed and refined by means of recursive cycling among the case data, emerging theory, and later, extant literature.

It is interesting to note however, that in-depth coding is not a central part of Eisenhardt's model, nor was it common among the exemplar studies. The coding that did occur in the studies was typically only at a basic level, for example to "tag themes and statements of interest" in Gersick's (1994) single case study, or to differentiate types of a particular behaviour (impression management), Zott & Huy (2007). If anything, among these highly recognised examples the use of coding tends to be associated with single case studies (Gersick, 1994; Dutton and Dukerich, 1991). To further clarify this issue, I contacted Eisenhardt (personal communication 2007), who confirmed this attitude towards the use of coding, emphasising instead the need to focus on "the big picture" that interviewees are conveying.

4.2.3.2 Stake (2006) multiple case study analysis

Stake (2006) proposes another model for analysis which could potentially have been relevant to the present study. This model's analytic processes seek to address the "case quintain dilemma" referred to earlier, by means of what Stake refers to as the "case quintain dialectic". This "dialectic" approach is effectively Stake's "grand strategy" for analysis, which he describes as "a rhetorical adversarial procedure, wherein attention to the local situations, and attention to the program or phenomenon as a whole, contend with each other for emphasis" (p.46). In brief, like Eisenhardt, the method involves a process of creating an individual summary for each case, however for Stake this leads on to a several steps which involve clustering and ranking data, so as to preserve a case-based perspective while at the same time extracting the most significant findings.

One very significant limitation of this model however is that it remains paper-based, resorting to somewhat dated "scissors and paper" activities such as cutting and physically moving strips of paper, and manually writing reference links and tables. Although these activities were difficult to replicate literally with software designed for qualitative data analysis, the present study sought to incorporate the principles from Stake's model. A key element of these was the principle of using the interaction between case-based themes or questions, and quintain-related findings in order to determine the frequency and breadth of issues, as a means of evaluating the relative significance of issues within the data.

4.2.4 The outcome of case study research: what is "theory"?

With regard to the present study, one significant issue is the level of analysis that can be produced. Eisenhardt states that the model adopts a "positivist view of research... directed towards the development of testable hypotheses and theory which are generalisable across settings" (p.546). However, the question of precisely what constitutes "theory" is a recurrent debate in qualitative research. In this regard, Merriam (1998) offers a classification involving three differing levels of analysis;

- (i) Level 1: The first level consists of descriptive accounts which represent the most basic presentation of a study's findings.
- (ii) Level 2: The second level in this classification relates to the development of categories or themes that capture some recurring pattern, and includes taxonomies, classification schemes, or typologies.

(iii) Level 3: The third level is that of developing models or generating "theory"

Merriam (1998) suggests that while a case study report may have a greater proportion of description than other forms of qualitative research, in order to convey a holistic understanding of the case, the level of interpretation may also "extend to the presentation of categories, themes, models or theory" (p.194). This implies that from her perspective, the outcome of case study research can involve either the second or third levels of the classification.

Approaching the issue from slightly different perspective, Locke (2001) proposes that theory can take a number of forms. For traditional writers such as Glaser and Strauss (1967), the ultimate goal has been to generate formal theory; that is, theory with high levels of generality and abstraction, as exemplified by systems theory or contingency theory. As Locke (2001) suggests however, this is a fairly ambitious undertaking. Furthermore, Bemells and Foley (1996) argue that in the particular area addressed by the current study, the goal of formal or "grand theory" is neither achievable nor appropriate.

In reality, many management and organisation theories are substantive, that is, they are developed from a substantive grounding in concrete situations. Arguing from the other side of the debate, some contemporary writers take a more tolerant position, arguing that "theory" could for example, simply be "a process narrative", or it might comprise theoretical elements as devices of enlightenment (Locke, 2001, p.37). Reviewing the situation, Locke asserts that there is room for a variety of "theoretically oriented products" (p 38); potentially this includes for example, process oriented theories as a "sequence of individual and collective events, actions and activities unfolding over time in context", as well as extending to static models, for example a typology.

4.2.5 The present study – analytic procedures

The present study closely followed Eisenhardt's (1989a) model, and the principles demonstrated in the exemplar studies listed earlier. At this point therefore, rather than repeating that model in detail, the following will outline how this was specifically applied, and adapted, for the present research.

The first stage consisted of creating the detailed case study "write-ups" for each case. These were usually around 4-5 pages in length, including diagrams illustrating the critical points in the progression of the case, and the key factors influencing the sequence, similar to the sequences used in the exemplars, as case "histories" (Gersick 1988, 1994; Gallunick and Eisenhardt 2001), or "profiles" or "stories" (Bourgeois and Eisenhardt 1988; Eisenhardt 1989b). The format was largely consistent across the cases although the nature of the data available from cases did vary; with some for example

involving written documentation supplied by the parties, while others had only the interview data and observations. The number and type of parties also varied across cases with some cases for example, having multiple employee-side representatives compared to others which had only a single, self-represented employee. Similarly, the content of the discussions from the open ended interviews varied, with some participants being able to offer considerably more detailed information than others; (the issues associated with this area explored in further detail in the analysis section).

The second stage consisted of the search for cross-case patterns, in keeping with the recognised two-stage analytic sequence, with both within-case and cross-case analyses. A wide variety of comparisons were used here, and these included the recommended approach of grouping cases in terms of specific factors. At face value there seemed to be a number of patterns related to factors such as the size of the organisation and the types of representatives. However, as the analysis progressed, the actual function and relevance of the patterns was constantly compared with the data, resulting in the elimination of a surprising number of spurious patterns, as the data was explored in increasingly greater detail. Therefore, although this is listed as a separate stage, in reality the process was iterative, and involved returning to this point as patterns were eliminated and others refined, as discussed below.

At this point, a decision was made to also incorporate closer coding into the analytic process. While acknowledging Eisenhardt's caution regarding the use of line-by-line coding within a multiple case study, NVivo was used to assist the analysis. All the data was entered into NVivo and at commencing from this stage, the preliminary codes developed from the cross-case comparisons were tested on the actual raw data. In effect then, this created a two-tier process, which involved firstly developing the broader patterns from the case summaries, as recommended by the main multiple case study and analysis approaches. The second stage consisted of the process of returning to the data to apply and test the emergent codes against the evidence from each case. In itself, this is very much the 'standard' third step of the model for the analysis of multiple case studies however the difference here is that NVivo was used as a tool for dealing with the data. The actual procedure consisted of coding the raw data according to the preliminary codes. This however, did not involve going to the fine detail of line-by-line coding of every single line of data, which Eisenhardt cautions against, but rather using the preliminary codes as initial, tentative bases for coding the data, which were subject to ongoing modification and development. In practice, this approach proved highly valuable. The return to the actual data, as part of an ongoing iterative process, meant that the codes were, in classical style, often deleted, or amended and modified, along with new codes being identified. The coding of the raw data proved to be a very exacting test of emergent codes and propositions which significantly refined the outcomes. Although time-consuming, it did produce considerable benefits.

This coding therefore, effectively constituted the basis of the third step of Eisenhardt's analytic model,

with the development of hypotheses and propositions through systematically comparing preliminary themes and relationships with the evidence from each case. As the analysis progressed, very clear and consistent hypotheses and propositions emerged, which were clearly grounded in the data and consistent with the available evidence. Consistent with Eisenhardt's proposal, the process involved firstly refining the definition of the construct, and then secondly building evidence, measuring the construct in each case through the process of constant comparison between data and construct. Having the coded raw data stored and readily accessible within NVivo meant that this activity was particularly detailed and thorough, allowing greater precision in working towards clear definition of the core constructs.

In parallel with this process, the approach of using tables from Miles and Huberman (1994) was also used extensively. These tables provided a very clear comparison of the differing patterns across the multiple cases, in a way that was not always as evident from simply dealing with coded narrative. A large number of tables were created, testing out tentative hypotheses. The visual displays of the data permitted ready identification of where proposed relationships were not consistent, as well as assisting in the locating patterns of causality and relationships which may not have otherwise been equally evident. From this large number of initial tables, the resulting, and much smaller, number of final tables were refined and evolved, to the point of being used in the write-up of analysis. The tables therefore shown in the analysis chapters illustrate the function served by the tables in the analytic stages.

Again, at this stage another step was introduced in order to further corroborate and test the preliminary findings from the initial analysis. The preliminary analysis had focused on the actual cases. The more "classical" approach for subsequently testing these findings could have involved using a second set of cases, however the difficulties associated with access meant that this was not possible (Gersick 1988), as changes within the Department of Labour meant that this access was no longer possible. In the absence of a further set of cases, the next best option was to access a group of professionals who were involved in a variety of disputes. The purpose of this was to attempt to "test" the preliminary findings by applying these to a second data-set (with this second set of data however, consisting of the professionals broader experience of disputes, rather than single actual dispute cases). This involved using a number of representatives, as well as managers of organisations, as participants for this phase. Their input tended to largely confirm the basic framework of the model, although the key limitation was that their perspective did not include the fine detail of individual cases. Thus, while the second phase did provide some corroboration, it did not necessarily achieve this to the extent that had been hoped for. Ideally, it would have been better to have access to another set of real cases, had this been a possibility.

The final stages consisted of the links with the literature and reaching closure. In practice, this was very much part of an iterative process, rather than literally being a final, sequential stage. As it eventuated,

the inductive, exploratory approach of the present study differed considerably from the strongly deductive approaches used in the existing literature, and consequently the types of findings varied considerably. With the iterative, constant comparison process of returning to the literature and the data, it became very clear that the choice of research approach, with the exploratory, multiple case study approach, had led to a very different perspective on disputes. In effect, the present study gave rise to a very different model based on a longitudinal sequence, which framed the disputes as being very much a process, as compared to more static analysis of a single initial choice which was the focus of the earlier literature. Although there were some common points between the present research and the existing literature, the most important aspect was the new way in which disputes were framed, with the key difference of proposing that disputes are in fact, much longer processes with multiple choices, and a dynamic interaction between the two main parties. These issues will be explored further in the subsequent chapters.

As the analysis proceeded, the point of theoretical saturation became increasingly evident, with the "new" learning from the data decreasing as the propositions developed from the study progressively captured and explained more and more of the phenomena. As will be discussed later, there were 'outlier' cases and unexplained aspects which constitute as avenues for subsequent investigation in other research. Thus the findings did closely mirror Eisenhardt's (1989b) own description that "the propositions fit the evidence but did not perfectly explain the cases" (page 548).

The final outcome from the current study was an overall model of the dispute process occurring within the New Zealand context. Within this, there were a series of smaller models relating to the decision-making of each of the main parties concerning the decision to pursue dispute action, as well as a model concerning the factors influencing the dispute handling approach of each party. The final overall model involved three core constructs, and thus constituted the "theory" described by Locke (2001), which although not necessarily constituting "grand theory", did nonetheless provide a significant contribution towards the preliminary understanding of dispute behaviour within New Zealand employment settings

Chapter Five: Analysis – Dispute Type

5.1.1 Introduction

The analysis of data progressed through several stages, commencing from an introductory, descriptive level, and moving through increasingly higher levels of analysis, until eventually reaching a final, overall model which is composed of a small set of core constructs. The initial sections provide an introduction to the participants and the cases, as well as outlining the phenomena, so as to set out the foundations for the subsequent discussions. The analysis then proceeds to deal separately with the perspectives of each of the two core parties, the employer and employee, in order to identify the two distinct sets of dynamics which will then feed into a subsequent section, covering the combined interaction between the parties. Separate models are produced for the functioning of each of the two main parties, as well as a model for their interaction, consisting of sets of lower level variables which then lead to a smaller set of higher-level constructs. Finally, an overall model is proposed, using the three core constructs of dispute type, power, and interaction type.

At this point, as an explanation, it is useful to distinguish between the two main time-periods associated with the disputes. The first period consisted of the interactions between employer and employee, prior to when the employment relationship problem officially became a "dispute", which was defined as starting from the point at which a third party became introduced. While this period was important for providing an understanding of the longer course of a dispute, the data relating to this period had lower reliability due to both the lesser number of participants involved in the early stages, which meant there was reduced opportunity to corroborate or triangulate the information from those sources, as well as the potential problems associated with retrospective reporting from participants regarding events that occurred some time prior. The focus of the research was therefore mainly directed at the period once an employment relationship problem had become a "dispute", and the subsequent handling of that, with the multiple sources of information available for in-depth analysis of that period.

5.2 Part One: An Overview of the Phenomena

5.2.1 An Overview of the Participants and the Cases

By way of introduction, this present section will offer a brief overview of the participants and the cases. The research involved fourteen cases, and therefore with one employee at the centre of each case, there were 14 employees. All but one of these employees were "first time grievants", in the sense that the dispute (employment relationship problem) they were experiencing with their current employer, represented the first formal grievance that they themselves had been involved in.²⁰ None of the participants were what could be termed "recidivist grievants", that is, individuals who had a history of prior grievances with a variety of earlier employers. Similarly, only one of the employees had been to mediation before, although some did have friends or family who had been involved in employment disputes.

The employees, and the organisations that they were employed by, represented a variety of occupational and industry groupings. Although, as qualitative research, this did seek not achieve statistical representation, the participants and the employing organisations did cover a variety of areas, ranging from private and public sector, with diversity in terms of qualifications and occupational groupings. An outline of the participants is shown in Table 4.

²⁰ In one case, Corg B, the employee had previously pursued a personal grievance and attended mediation, but this was with the same employer that they were currently employed with, and formed part of the overall disputing-sequence and relationship deterioration that was covered in the current research.

Table 4: Occupational and industry groups of the participating employees and organisations

Case	Private / Public Sector	Industry	Organisation Total size	Local unit size
ALARMS	Private	Security / Law and protection services	24	-
COPIER	Private	electronics	285	-
GAMMA	Private	Service / hospitality	550	550
REDBANK	Private	banking	6000	-
RETAIL	Private	retail	3500	70 incl p/t
NEWS	Private	media	100	100
WASTE		waste	150	150
ROAD	Private	construction	3000 (NZ)	400
CORG - B	Public	Law and legal services	1,817	-
MOVERS	Private	Removals	-	10
TERMINUS	Public-Owned Trading	Transport / tourism	175 (FTE)	175
CORG- A	Public	Law and legal services	1,817	-
BLUBANK	Private	banking	9000	-
FLEET	Public	Emergency services	2100	160

Note that the specific *occupation* of the employees was recorded in the data, however this is not provided in this report as, in occupations where there are only a small number of employing organisations, this would potentially identify the organisations concerned and so jeopardise confidentiality.

5.2.2 Outline of the Disputes

The contested issues at the centre of each of the cases form the basis of the subsequent dispute processes. The two perspectives of each dispute are summarised in Table 5, where the employee's perspective is listed on the left-hand column, while the employer's is in the right-hand column. While there is a very evident divergence in some cases between the perspectives of the employer and employee parties, in other cases the two sides tend to concur. In addition, there were also a range of other parties involved in the research, and in many cases the information from those parties tended to corroborate one of the two perspectives, providing additional insight into what was actually occurring.

One point worth noting at this stage, which will be discussed in greater detail later, concerns the difference between the "official" issue that may eventually form the basis for mediation, as opposed to one or more of the parties' perceptions of the "real" issue involved. For example, the technical or "official" issue that gives rise to a request for mediation may concern a dispute about changing a

person's duties, whereas the employee may believe that this is simply part of a wider-scale personal conflict, with the manager trying to push the employee out of the organisation, which for that person, is the “real” issue.

Table 5: Outline of the disputed issues from the perspective of employee and employer

Case	Perceived dispute focus - employee perspective	Perceived dispute focus - employer perspective
ALARMS	Employee reports ongoing harassment from another employee, including fabricated allegations concerning misconduct. Employee requests action from the employer but this does not occur. Grievance is taken against the owner/manager for failing to act	Employer perceives employee as manipulative and unreasonable in his expectations, with shortcomings on his own part
COPIER	Employee perceives that his new manager is deliberately attempting to exclude and remove him, using biased, predetermined performance issues as the pretext. The manager is colluding with another colleague, with both against the employee (“them and us”)	Local manager perceives employee as lacking capability, or desire, to do the job, in the way the manager desires. Employee doesn't fit the role. Asserts that employee has had assistance and opportunity to change
GAMMA	Employee was transferred to another (better) role, but then moved back to her original job. The employee perceives the underlying issue is a personal attack, that s/he is being picked on, and the manager's goal is to get rid of him/her, using whatever means are needed.	Company (HR manager) perceive employee as problematic and having leadership among employees and the union role. Dislike her willingness to debate the company's actions.
REDBANK	Employee receives unfavourable rating in the subjective aspects of performance appraisal, and perceives this as part of personal conflict, with biased unfair dealings from a new manager.	HR manager perceives the issue as personal conflict between the employee and her manager; perceives the employee as unwilling to change and accept a new system. Employee's objection is just part of resistance to a new system.
RETAIL	Employee perceives the actions of direct middle manager as unfair and bullying, with constant belittling and aggression. A series of job changes occurred, which the employee perceived highly unfair and setting him/her up to fail.	Employer claims to have no knowledge of the alleged problems, and these are a complete surprise to the store manager. Manager is cautious about the employee's motivation in engaging a representative.
NEWS	Employer simply tells employee to leave, with no prior warnings. Employee disputes the employer's actions perceiving them as highly unfair, acting in an autocratic way without any concern for the employee.	Perceives the employee as not competent or failing in the task of leading a team. Decides to act rapidly without regard for legal procedures
WASTE	Employee initially disputes a single decision regarding payments, but this rapidly escalates to a range of other issues as part of a dispute with management.	Managers perceive the employee as an extreme troublemaker, going out of his way to disrupt the company and pursue complaints.
ROAD	Allegations of an extremely long history of low-level conflict between the employee and the supervisor, with allegations of the employee being picked on by the supervisor	Higher management perceive this issue as vexatious, driven by the union for their own motives, with little real, substance

Case	Perceived dispute focus - employee perspective	Perceived dispute focus - employer perspective
CORG – B	A long prior history of disputes with the organisation. Specific dispute in this instance concerned the employee working additional hours without prior permission but wanting remuneration for these.	Perceive the employee as being a problematic staff member who is time-intensive and has unrealistic expectations
MOVERS	A series of disputes over a longer period of time. Two main disputes: (1) continuity of service when employee left for duty as a Territorial soldier; (2) dispute over pay in relation to changed duties	Manager perceives the employee as being obstinate, and becoming unreasonable, over small issues
TERMINUS	Disciplinary incident and punishment (warning) – employee believes was innocent and that company failed to investigate properly, was predetermined, and unfair, disparate treatment compared to other employees	HR manager perceives the issue as silly, proceeding to mediation over small matters, and doubts the veracity of the employee's claims. Cautious about the union or employee motivations.
CORG- A	Disciplinary issue and punishment (warning). Employee strongly believes (1) decision was wrong as he was innocent, and (2) that the investigation process was unfair as it was unduly protracted	Management perceive the matter as a single disciplinary decision that they are prepared to uphold
BLUBANK	Employee believes s/he was wrongfully denied a job which s/he applied for, according to one interpretation of the rules and the Collective, she should have gained	Management perceive the matter as a misunderstanding that can be resolved, but are cautious about the union's motives
FLEET	Proposed transfer of employee. Employee is ordered to move, and so disputes the manager's action, arguing that collective rules mean the employer does not have the right to do this	Manager perceives the issue as part of a response to his more direct management style, and a challenge to his broader moves

5.2.3 Dispute Sequences

For each case, the dispute followed through a course of events, eventually leading to a final conclusion. The externally observable sequence of events is referred to as the “dispute sequence”, while for the individual involved in the dispute, their experience of the dispute is referred to as their “dispute journey”.

Figure 2 illustrates the various forms of "dispute sequences". The typical process commences in Phase (1) with an issue that forms a matter of contention between the employer and employee. In this first phase, the two main parties may attempt to address this issue between themselves, without external assistance. A variant occurred in some cases, where the employees attempted to involve an internal third-party from within the organisation. However, when these initial attempts still did not resolve the dispute, an external third-party was brought in, forming Phase (2) of the dispute. In this second phase, a series of interactions between the parties occurred, with the assistance of one or

more third parties, forming the main “pre-mediation” interactions. In all cases, these endeavours were also unsuccessful, and as a consequence the parties proceeded to external mediation with the Department of Labour mediation services, forming Phase (3) of the dispute. A common theme across all the cases therefore, was that the parties were unable to resolve their differences during interactions in Phases (1) and (2). In some instances, during the pre-mediation stages, one or more of the parties did make compromises, however this was not sufficient to completely resolve the dispute.

There were variations around this common pattern. In some cases for example, the dispute occurred against the background of a longer history of prior disputes, which could have been going on for several years, in the lead-up to the current Phase (1). Another variant was that, during the first phase, some employees completely bypassed attempts at resolution within the organisation, and proceeded directly to the involvement of an external third-party in Phase (2).

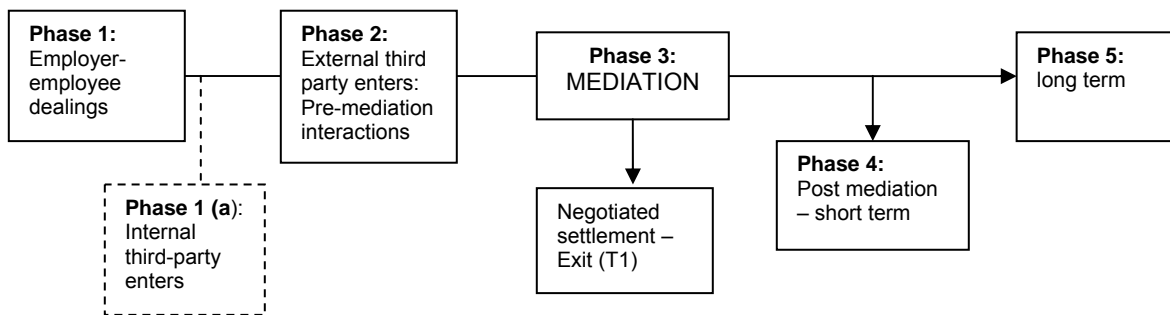


Figure 2: The typical dispute sequence

Although at the time of reaching mediation in Phase (3), all the cases were officially “ongoing” employment relationships, meaning that the parties had not terminated their employment relationship, there was considerable variation within this group, and a number of the parties were at least considering ending their relationship. From the point of mediation, the paths varied therefore, taking three separate routes, according to the eventual outcomes, as shown in Figure 3.

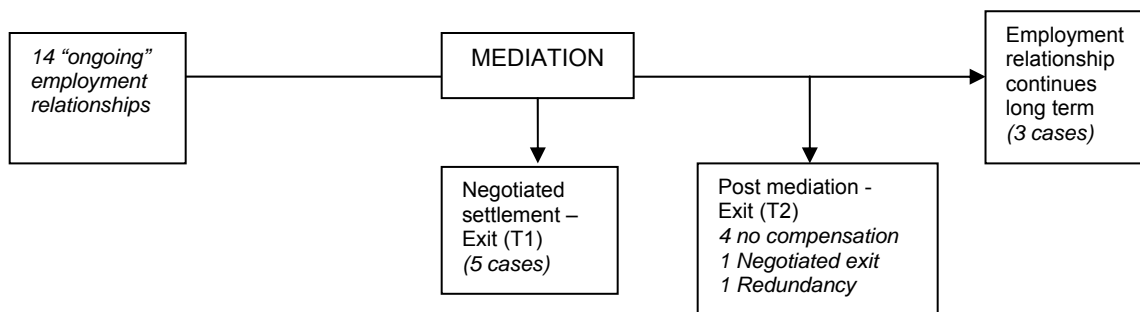


Figure 3: Outcomes from the disputes

The first set of outcomes were those where the dispute ended with the termination of the employment relationship at the time of mediation (Phase (3)), constituting the first type of exit, Exit T(1). In these situations, the employees did receive some form of compensation as part of their mediated settlement, however none had alternative employment organised at the time of the termination of their employment.

In contrast, with the second group, the immediate issue in contention may have been resolved to some extent at mediation, and the employee returned to work with their same employer in the short-term following mediation, in Phase (4). However, this was not a permanent solution, as these employees left their employment usually between 3-6 months post-mediation, Exit T(2). Of these, four departed at what was essentially their own initiative, rather than as part of any mutually negotiated departure. As a consequence they left with no compensation, although a key feature of these cases was that they did have alternative employment arranged. One other case (Waste) did involve a departure that was negotiated between the employer and employee, with the result that compensation was paid, however the employee left without any immediate employment to go to.

One additional case associated with this group involved a redundancy (Road). Although technically, in a redundancy it is the position, rather than the employee, that is deemed to be surplus to requirements, however in this case informants representing the employer confirmed that the difficulties associated with employment problems were a significant part of the reason for the decision to outsource this area of work.

The third group were the cases where the issue was satisfactorily resolved at mediation, and the employee remained with their employer long-term, continuing through to Phase (5).

5.3 The Nature of the Dispute - Dispute Type

5.3.1 Dimension (1) Relationship Change

5.3.1.1 Introduction

This section commences an analysis of the nature of the disputes. It commences by firstly considering the rate of change and decline in the employment relationships, separating cases according to the progression of the dispute. From there, the focus shifts to identifying what is termed the "Dispute

Type”, leading to the creation of three main proposed types of dispute, based on the nature of the issue at the centre of the dispute. This construct forms the first of the three core constructs in the research.

5.3.1.2 Dimension (1): Relationship Change

Variables: Duration of relationship (tenure), rate of relationship change

The first important variable in the disputes was the rate of relationship change, reflecting the ‘speed’ at which the dispute progressed. “Relationship change” was defined as the change occurring in an employment relationship as a result of the dispute. This could either result in the eventual demise of the relationship, or the continuation of the relationship on an ongoing basis. There was considerable variation in the rate at which relationship change occurred, ranging from comparatively sudden, rapid change, through to a much slower progression and no change at all, as illustrated in columns 4 and 5 of Table 6. The rate of relationship change was classified into four categories, short, medium, or long, which defined as 0-24 months, 25-48 months and 5 or more years – as well as the category of “no change” where the relationship continued on an ongoing basis.

An interesting perspective on the disputes came from contrasting the “current” dispute, that is, the issue disputed during the period of the research, against the longer-term context of the overall employment relationship, for each case. In terms of tenure, many of the cases involved long-term employment relationships, with half of the employees having been in their current employment for more than a decade. Table 6 shows the tenure of the employees, which ranged from approximately 1.5 through to 18 years. The tenure, or duration of the employment relationship, was classified into three main categories, short, medium and long, defined as 0-3 years, 4-8 and 8 or more years.

Table 6: Tenure and Relationship Change

Case	Employee Tenure	Overall relationship with employing organisation	Relationship change	Timeframe of Change (approx)	Decline type
ALARMS	2yrs	Short relationship - ongoing decline throughout	Conflict throughout; duration \leq 24months (relationship ends)	Short 24 months	SD-SR
NEWS	1.5yrs	Short relationship - ongoing decline throughout	Conflict throughout; sudden (near-instant) termination (relationship ends)	Short 17 months	SD-SR
WASTE *	1.5yrs	Short relationship - ongoing decline throughout	Relationship decline - throughout (relationship ends)	Short 18 months	SD-SR
COPIER	14yrs	Long term relationship; - sudden decline when new manager arrives	Interpersonal conflict; duration \leq 12 months (relationship ends)	Short 12 months	SD-LR
GAMMA	10 yrs	Long-term relationship; - sudden decline when new manager appointed	Interpersonal conflict; duration \leq 12months (relationship ends)	Short 12 months	SD-LR
REDBANK	18yrs	Long-term relationship; - sudden decline when new manager appointed	Interpersonal conflict duration \leq 12months (relationship ends)	Short 12 months	SD-LR
RETAIL	7 yrs	Medium term relationship; - sudden decline when new manager appointed	Interpersonal conflict duration \leq 14months (relationship ends)	Short 14 months	SD-MR
TERMINUS	12yrs	Long-term relationship; - decline with new management	Relationship decline duration \leq 4 years (relationship ends)	Med-long (4 years)	MD-LR
CORG - B	10yrs	Ongoing problems throughout relationship	Ongoing decline, long history – current dispute marks end (relationship ends)	Long - Throughout	LD-LR
MOVERS	10 yrs	Ongoing problems throughout relationship	Cumulative decline - current dispute just marks end; (relationship ends)	Long - Throughout	LD-LR
ROAD	15yrs	Ongoing problems – long term interpersonal conflicts	Interpersonal conflict reaches peak (relationship ends - redundancy)	Long - Throughout	LD-LR
BLUBANK	8 yrs	Long term relationship – no change	Relationship continues	No Change	NC
FLEET	10+yrs	Long term relationship – no change	Relationship continues	No Change	NC
CORG - A	4yrs	Short / medium term relationship – no change	Relationship continues	No Change	NC

KEY:

SD = Short timeframe (rapid) decline (0-24 months); MD = Medium timeframe decline (25-48 months); LD = Long-term decline (5+ years)

SR = Short Term relationship (0-3 years); MR = Medium Term relationship (4-8 years); LR= Long Term relationship (8+ years);

NC = No Change

* worked as contractor for 18 months for previous company, then ongoing employment when new company took over – dispute was with new company only

The comparison of the two variables, that is, the duration of the employment relationship, with the rate of relationship change, effectively produced a set of six combinations, as shown in the last column of Table 6. These showed three main patterns of dispute-related relationship change.

Pattern (1): Sudden Decline (SD)

The first of these patterns was the rapid, sudden relationship decline(s), defined as involving a change occurring within 24 months or less. Within this there were two distinct sub-types.

Sub-type (1): Sudden decline in Long-term relationships (SD-LR)

One sub-group within this category were the long-term relationships (SD-LR), where there was a very marked contrast, between a more recent period of sudden, rapid decline, compared to what had previously been a longstanding, satisfactory relationship. Copier, Gamma and Redbank for example, all involved a decline of 18 months or less, in a relationship that had existed for between 10-18 years. Interestingly, the critical factor associated with this sudden decline was the arrival of a new manager or management in the organisation²¹. Although it was difficult to precisely define the timeframe for decline as there was often a process of change, rather than a single event, employees consistently associated the start of this change in their relationship, with the arrival of the new management;

*Yes I'd been there fourteen years – fourteen and a half I suppose, and I suppose yes, fourteen of those years were very enjoyable
I suppose [manager name] arrived here what, about a year ago now we were in for a change [employee, Copier]*

It started with the promotion of a certain person [employee, Gamma]

A variant of this was the medium rate of decline, (that is, between 25 – 48 months) in a long-term relationship (MD-LR) which occurred in Terminus, but again the commencement was associated with a change of management;

But the problems – the problems really started as I said with [manager name] and [name] ... and this is when it all – my problems started anyway with the company. Up until then it was – I didn't have a problem at all [employee, Terminus]

²¹ The relationship decline did not always commence immediately with the arrival of the new management though. In some cases there was an initial period where the new manager was busy with other parts of the organisation, before they turned their attention to the informant's own area; (Copier, Terminus)

Sub-type (2): Sudden decline with Short-term relationships (SD-SR)

A second subgroup consisted of those cases where the relationship itself was short, and there was a relatively continuous period of decline throughout that relationship. For example, in Alarms, News, and Waste, the employees had only been with the organisation for two years or less, yet the parties concurred that the relationships were generally problematic and declining, throughout that time.

Pattern (2): Long-Term Decline (LD)

The second category was the slower, long-term declines. In all of these cases the process of decline occurred throughout a long-term relationship (LD-LR), and these were frequently situations where there was a history of disputes prior to the current issue. The cases of Corg B, Movers, and Road involved situations where there was a long-term relationship of between 10-15 years, with ongoing problems throughout much of that time, culminating in the termination of the relationship.²²

Pattern (3): No Change (NC)

The third category comprised the cases where there was effectively no change in the relationship. The dispute did not produce any major long-term change in the employment relationships, and consequently these continued on an ongoing basis after the dispute.

Overall then, this classification of the types of relationship change illustrates one of the foundations in terms of the variations in dispute patterns. The significance of these patterns will emerge as the remainder of the dispute processes are explored, including in the following section where the main Dispute Types are developed.

²² The Long-Term Decline cases in the study all involved long-term relationships

5.3.2 Dispute Type – three ‘types’

Variables:

(1) dispute type - three main categories within this:

- *interpersonal conflict (IPC), subcategories critical / non-critical relationship, high / low intensity*
- *company decision, (CD), subcategories single / cumulative*
- *interpretation (INT)*

(2) extent

(3) relationship change

In exploring the dispute itself, the next construct that emerged is the Dispute Type, referring to the nature of the dispute. Three main categories are identified, comprising interpersonal conflict (IPC), company decision (CD), and interpretation (INT). The Dispute Type is related firstly to the new construct of Extent, meaning the degree to which a dispute affects the employment relationship, and secondly it is also associated with Relationship Change, as discussed above. It is proposed that the differing Dispute Types are causally associated with the varying forms of dispute sequences that occurred, with the Dispute Type exerting a very strong influence on the overall course of a dispute. As such, Dispute Type formed the first of the "core" categories underlying the overall dispute processes²³.

5.3.2.1 Defining the Substance of the Dispute

The "substance" of a dispute was defined as the fundamental nature of the dispute, in terms of the underlying nature of the perceived problem or injustice. One practical difficulty for categorising types of disputes concerned the varying perspectives of the parties; in some cases the parties shared very similar perspectives, but in others they differed. The underlying premise was that, for a relationship to function effectively, it is necessary for both parties to perceive the relationship as functional and bringing benefits. If one party however, perceives the relationship as problematic and causing more disadvantages than benefits overall, then that party is likely to either attempt to remedy the situation, and/or leave the relationship. The relationship thus ceases to exist if the party perceiving the problem leaves the relationship. Typically, in an employment relationship, the employee initiates the grievance or dispute actions, and it is the employee's (the "grievant's") perspective which forms the grounds of the challenge. The present research therefore, took account of the perceptions of the party that

²³ Earlier research had distinguished grievances in terms of aspects such as comparing policy-related grievances to grievances filed against a superior (Klaas and De Nisi 1989), or compared to disciplinary grievances (Klaas, Heneman and Olson 1989), however these were only for the purposes of comparisons with the specific outcomes such as absenteeism.

considered the relationship to be problematic, and this was generally the employee. In reality though, with most cases, the employee's perspective was also corroborated by other parties, and in a number of cases the employer shared a similar perception of the issues.

The Dispute Type is also associated with two other variables, as mentioned earlier. The first of these is the type of Relationship Change, as discussed. The second is the concept of the "extent" of the effects of the dispute. "Extent" is defined as the degree to which a dispute affects the employment relationship, and this forms a continuum, ranging from affecting only a single aspect (the one issue in contention), through to affecting the overall (whole) relationship. The differing dispute types have a differing extent to which they affect the employment relationship, and this will be explained further with regard to each dispute type.

The relationship between these three variables is that Dispute Type is the independent variable which firstly determines the Extent of the effects of the dispute. These two factors, Dispute Type and Extent, together then determine the subsequent Relationship Change that occurs, as shown in Figure 4.

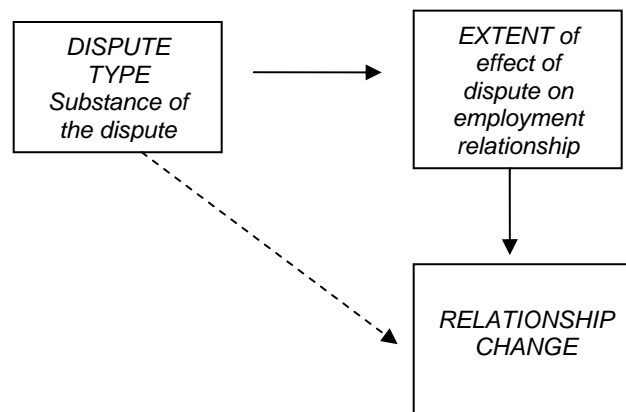


Figure 4: The relationships between Dispute Type, Extent and Relationship Change

5.3.2.2 Dispute Type (1) Interpersonal Conflict (IPC)

The first dispute type is "Interpersonal Conflict" (code IPC). In this category, the dispute is essentially a relational matter, concerning the relationship between the employee and an employer-party, who is usually the person's direct manager. The official "issue", or topic of disagreement, typically concerns an employee complaint relating to the manager's actions, which can include bias, unfair treatment, failure to act on issues, and alleged bullying. The defining feature is that the dispute is perceived as resulting from interpersonal conflict between the employee and their manager, where the employer deliberately

acts in a particular way that disadvantages the particular employee, rather than constituting unjust dealings with all employees. The matter is *personalised*, targeting the particular employee, and as a consequence the employee comes to believe that there is little chance of obtaining fair treatment.

In Gamma for example, the employee perceived that the manager was pursuing a course of action involving changes to her job content and duties as part of an intentional strategy, with the goal of forcing the employee to leave the organisation. The company's HR Manager corroborated the employee's interpretation of what was occurring, providing explicit reasons as to why the manager was personally targeting this employee. A similar pattern was repeated in Alarms, where the employee clashed with the particular direct manager, but had an amicable relationship with the second manager in the company, with both managers confirming the employee's perception of the interpersonal clash that existed. In Waste the employers were very clear about the personal focus of the dispute; "we will destroy him. You know, you take me on this and we're gonna beat ya".

The assertion that a problem related to interpersonal conflict between two individuals is particularly supported in cases involving sudden declines in long-term employment relationships (SD-LR). In those situations, there had been a lengthy period of satisfactory relationships between the employee and the organisation, however, with the arrival of a new manager, the situation changed significantly, giving added credence to the perception that the subsequent problems stemmed from a specific interpersonal issue. This interpersonal nature was usually already present at the time that the problem became a "dispute", rather than being a product of escalation during the dispute phase. For example in Retail, the new manager's relationship with the employee was conflictual from the time of her arrival, which was well prior to the problem reaching the status of a "dispute";

So we had a new fashion manager come in. I had heard a lot about this fashion manager. None of it was positive - so yeah - I was quite apprehensive when she came in. She took an instant dislike to me straight away. Told me she didn't like me. Told me [company] would be better off without me. (Employee, Retail)

Overall, this type of dispute is characterised by its interpersonal nature and the perceived mistreatment is personalised, rather than representing unjust dealings with all employees. There were two lower-level variables which formed sub-categories associated with this dispute type.

Sub-dimension (1): Criticality of the Relationship

The first variable is the notion of the "criticality" of the relationship between the employee and the other party to the dispute. For each dispute there was typically also a person, or category of person(s) representing the employing organisation who formed the "other-party" to the dispute. With the interpersonal conflict cases the primary other-party was a specific person, in the form of employees' direct manager²⁴. The relationship between the employee and this other-party could be considered in terms of the extent to which it constituted a "critical" relationship. Criticality is portrayed as varying along a continuum. A critical relationship was defined as one where the other party had a high level of influence over the employee. For example, if the principal other-party was the employee's direct manager, in a small business where the employee has close daily contact and interaction with the manager, working closely together on the same site, then this manager could have a strong influence over important aspects such as the conditions of the employee's work, their enjoyment of the job, and their rewards.

He was playing people up against people. Yeah it was wrong and that was part of it and I thought, I don't need this. I don't have to take that. That was part of it. I sort of thought, I just don't need it. But if I stayed I don't think I would have got away with it. I don't think I would have escaped him. (Employee, Copier)

In contrast, in a less critical relationship, the manager would have much less influence, potentially being further removed from the employee both in terms of physical proximity, and also reporting relationships. If, for example, the other-party of the dispute was in a corporate office of the organisation, where the employee would typically have very few dealings with this person, this represented a non-critical working relationship;

The rest of it's fine. I don't think my relationship with her would be that good but, you've got to remember she's two levels above me. She works in the X office. I'm three or four hundred kilometres away, I would hardly see her at all. Maybe once or twice a year. She is now being seconded to Wellington and she might be there until the end of the year and may never come back so it's not an issue. [Employee, Corg A]

Interpersonal conflict cases involving critical relationships can therefore coded as Cr (critical), or N (non-critical). In the present study, there were no non-critical relationships; the interpersonal conflict cases all involved critical relationships, but in theory, it would be possible to have interpersonal conflict with an individual who was not in a critical relationship. As an abbreviation for this study however, it is implicit that the cases involved critical relationships and so this part (Cr) of the code is not shown.

²⁴ With the other dispute types, Company decision and Interpretation, the other-party was typically the company collectively, rather than a specific individual

Sub-dimension (2): Intensity of the Conflict

The second variable concerned the notion of the "intensity" of the conflict between the employee and the other party. The level of intensity could be considered as varying along a continuum, from low to high. In Gamma and Waste for example, the employers sought to completely remove the employees from the organisation; the employers engaged in a rapid series of strongly aggressive moves towards the employee, which radically undermined the employment relationship. This represented a "high" level of intensity of the conflict. In comparison, Road only involved low-level conflict, which consisted of occasional banter, jokes, and other such low-level behaviour from the supervisor. Although this was inconvenient for the employee, it did not represent the type of intolerable situation that the employees in Gamma and Waste experienced.

Interpersonal conflict cases involving critical relationships were therefore also coded as high intensity (Hi) or low intensity (Lo).

In terms of Extent, with high-intensity interpersonal conflict (IPC- Hi), it is conflict in the central relationship between the two parties that forms the essence of the dispute, rather than a specific, single decision or issue. The intense, relational nature of these disputes means that the conflict is pervasive and globalised, affecting the overall employment relationship. As a consequence, in terms of Relationship Change, the dispute process involves a series of sudden shocks and surprises, as the employee comes to realise the personalised nature of the conflict with their employer, as well as the consequences of this, with the far-reaching effects on the overall employment relationship. Typically, the very intense, relational nature of the dispute leads to a rapid relationship decline (SD-LR or SD-SR). The dispute usually culminates with an abrupt ending, as the employee terminates the employment relationship.

In contrast, with low-intensity interpersonal conflict (IPC- Lo), the fact that the conflict only affects the relationship to a significantly lesser extent allows the relationship to continue for a longer period, although it can eventually reach a point at which the relationship is terminated.

Extent: the overall relationship is affected

Relationship Change (Type): typically sudden, rapid relationship change (SD-LR, SD-SR)

5.3.2.3 Dispute Type (2): Company decision (CD)

With "company decisions" the predominant issue concerns a decision which affects a particular employee's conditions and employment. The decision can involve for example, issues such as pay, or the outcome of disciplinary proceedings and subsequent penalties. The defining feature of this dispute type is that it involves the *application* of a recognised and mutually agreed, company policy or procedure to the situation of an individual employee. The disputed issue is not perceived as personalised - rather, the matter is viewed as more of an action of the company, not the individual manager.

There are two variants within this type of dispute, varying according to the extent to which the specific issue currently under dispute is either a single issue, or whether it represents part of a longer term sequence of unsatisfactory interactions between the employer and employee.

Sub-type (1): Company Decision - Single (CD - S)

The first form is the "single" decision where the disputed action only constitutes a single, discrete issue, without a significant prior history of earlier disputes. The current dispute only affects this one, specific part of the employment relationship, while the broader employment relationship continues largely unaffected. If this particular issue is successfully resolved, and there is no ongoing pattern of disputes, then the overall employment relationship is likely to continue on a long term basis. For example, in Corg A the employee disputed the outcome of a disciplinary investigation where he was found to have been guilty of misconduct. Although the employee contested this decision, taking proceedings as far as the Employment Relations Authority, this was the only significant dispute with the employer, and despite the unfavourable determination from the Authority, the employee remained with the employing organisation on an ongoing basis.

In terms of Extent, the dispute usually only affects one single aspect of the relationship. Consequently, in terms of Relationship Change, the relationship typically continues on a long-term basis with no change overall.

Extent: a single aspect of the relationship only

Relationship Change (Type): long-term, the relationship continued, no change

Sub-type (2): Company Decision - Cumulative (CD - C)

The second form is when the current dispute occurs as part of a longer history of prior disputes, where the employee may have had to contest issues in order to attempt to protect their own interests. The "cumulative" effect is that the prior disputes have already adversely affected the employment relationship, and the employee interprets the current dispute as the employer once more being unreasonable or unfair. Even if the employee succeeds in gaining the desired outcomes from the current dispute, nonetheless, the effects of the long-term history of disputes, combined with the fact that the employee has again had to defend their perceived rights, mean that the employee perceives there is little chance of changing the employer's attitude and long term behaviour patterns, and so the employee is unwilling to continue the relationship.

In Movers for example, the employee had been with the company for ten years and during this time had been involved in several prior disputes with the company concerning issues such as pay and conditions. One dispute reached mediation regarding the question of time spent on service with the Territorial Force Volunteers, and this was perceived as yet another instance where the company was being particularly legalistic, rather than taking a more lenient approach in the way that many other employers did regarding this issue. The current dispute concerned an issue of pay, where the parties were arguing over a mere five cents per hour, which both sides acknowledged was ridiculous. Given the history of prior disputes, the employee was well aware of the company's inflexible attitude and, irrespective of the outcome of the current dispute, was 'pacing' his moves until he was ready to leave with an alternative job lined up. The matter was not a personalised issue, but rather the company's attitude to employees in general. He had formed the opinion, after working with the organisation for a long time, that staff were not appreciated, especially in comparison to other companies, and that he was not prepared to tolerate this any longer²⁵;

I've been there ten years and you know, when they - you know, mediate for five cents an hour - I said I've had enough. You know - it just all piles up and they treat their staff like rubbish and I just had enough of it. (Employee, Movers)

In terms of Extent, the cumulative effect of the long-term relationship change means that the employee perceives the company's attitude as pervasive, with the lack of fairness affecting a broad range of aspects. Consequently, the dispute is perceived as affecting the overall employment relationship, and given the decline in the employment relationship, the employee is moving towards the termination of that relationship. The Relationship Change associated with this dispute type involves the slower

²⁵ The employee in this case had technically ceased employment for a period while overseas with the Territorial Force Volunteers, however upon returning to New Zealand had resumed employment with the same employer. The case involved two main disputes, and the first actually contested whether his employment should have been deemed continuous. For this reason the case was classed as long-term employment with the same employer. The union representative closely corroborated the employee's perceptions, from having been involved for a number of years throughout the decline of this relationship

change, with long or medium-term decline in long-term relationships (LD-LR, or MD-LR), however this typically concludes with the termination of the relationship.

Extent: the overall relationship is affected

Relationship Change (Type): these are cases of slower change, with long or medium-term decline in long-term relationships - LD-LR (long-term decline in long-term relationship), or MD-LR

5.3.2.4 Dispute Type (3): Interpretation (INT)

“Interpretation” disputes centre on the interpretation of a collective rule or policy associated with the employees' Collective Agreement. The union and employer contest their differing interpretations of collective rules or policies and are seek to create binding definitions. The disputes function as “test cases” for the union as a whole, as it seeks to test out a precedent-setting point which had broad relevance to the wider union and its members. As the disputes are predominantly between the employer and the union, it is the ‘union’s dispute’, rather than simply an issue for the individual employee at the centre of the dispute.

Unlike interpersonal conflict, the issue is not directly personalised. Furthermore, the focus is on *defining* the rule, rather than debating the application of the rule to an individual’s situation, as occurs in a company decision. In the case of Fleet for example, the dispute was precipitated by the local manager’s attempt to transfer a specific staff member against his wishes, however this led to the debate expanding to involve the much broader principal of the overall rules applying to staff transfers. This topic was strategically important for both the employer and the union, as it also involved the question of whether “local agreements” between the union and local management, were binding;

“This one here. What it was - it was bigger than the transfer, it was the fact I wasn’t recognising local agreements. That’s what got them. As soon as I said that, everything changed. Everything changed when I said I don’t recognise any local agreements....And that’s the whole fight came about that.” (Manager, Fleet)

In terms of Extent, the interpretation disputes affected only the one single aspect of the employment relationship. Consequent, in terms of Relationship Change, there was effectively little or no change, with the relationship continuing on a long-term basis.

Extent: only one aspect of the relationship

Relationship Change: effectively no change, relationship continues long-term

5.4 The enigmatic case of Waste

Waste is a slightly unusual case in that it involved multiple disputes within a very short timeframe, with mediation occurring part way through the dispute sequence. It will be discussed from a number of angles but at this stage it is sufficient to note the significance of the case in terms of dispute types and the relationship change that occurs. The case is less straightforward than most of the others, including these aspects.

In terms of dispute types, the initial issue was a single company decision (CD) regarding holiday pay. However, the situation changed very rapidly so that the dispute soon covered numerous issues including the employee's actual manner of dealing with the problems, for example, going directly to the CEO when the problem was not resolved. By the time that it became a "dispute" the case had reached the point that the specific, individual contested issues were certainly not the problem – the real problem was an interpersonal conflict (IPC). It needs to be clearly noted that the IPC eventual dispute type far outweighed any company decision elements that may have been present in the early stage. The best way of interpreting this apparent 'change' is that the initial focus on a specific issue was simply part of a process of discovery, with some very brief preliminary encounters between the parties which led to the situation becoming clearer and both sides rapidly coming to perceive the conflict as far more personalised, and not a matter of specific, discrete issues under contention. The conflict was focused directly on this specific employee, especially with the employers' final stance including the very clear personal focus; "we will destroy him". The interpersonal aspects outweighed any single, specific company decision, and the dispute was predominantly, if not entirely, an interpersonal conflict, which affected the overall relationship. Unlike the relationship change in company decisions, the timeframe of the relationship decline in Waste was very brief, with a sudden, rapid decline leading to termination of the relationship, all within a very short period²⁶.

²⁶ Other cases did not evidence a progression from a company decision (CD) to an interpersonal conflict (IPC).

5.5 Summary

The three dispute types observed are associated with significant differences in the course of the disputes. Interpersonal conflict (high intensity) and company decision (cumulative) cases involve an overall decline in the employment relationship, whereas the other dispute types affect only part of the relationship. A rapid rate of relationship change occurs with interpersonal conflict (high intensity) disputes, while in contrast the interpersonal conflict (low intensity), and company decision (cumulative) disputes involve, slower long-term change. The company decision (single) and interpretation disputes have no long term effects on the relationship, with the employee maintaining their employment on an ongoing basis. In terms of final outcomes, the major decline in the employment relationships in interpersonal conflict (high intensity) and company decision (cumulative) mean that these disputes typically conclude with the termination of the relationship. However the company decision (single) and interpretation dispute types involve little or no long-term relationship change and therefore the employees remain with the organisation on an ongoing basis. These patterns are shown in Table 7.

The construct of Dispute Type will prove to be an essential foundation for the subsequent investigation of the dispute process. The effects associated with this variable proved to be significant and enduring with the result that Dispute Type is proposed as one of the three core constructs from the overall analysis, which will form part of the final model for dispute processes.

Table 7: Dispute Type, Extent, Relationship Change and Final Outcome

Case	Dispute Type		Perceived Extent of effect on employment relationship	Relationship change	Final outcome
	Summary Type	Substance of Dispute*			
ALARMS	IPC Hi	IPC – High intensity (High Criticality)	Overall	SD-SR	Exit T1
COPIER	IPC Hi	IPC – High intensity (High Criticality)	Overall	SD-LR	Exit T1
GAMMA	IPC Hi	IPC – High intensity (High Criticality)	Overall	SD-LR	Exit T1
REDBANK	IPC Hi	IPC – High intensity (High Criticality)	Overall	SD-LR	Exit T2
RETAIL	IPC Hi	IPC – High intensity (High Criticality)	Overall	SD-LR	Exit T1
NEWS	IPC Hi	IPC – High intensity (High Criticality)	Overall	SD-SR	Exit T1
WASTE	CD then IPC Hi	CD- Single then IPC High intensity (High Criticality)	Overall	SD-SR	Exit T2
ROAD	IPC Lo	IPC – High intensity (High Criticality)	Partial only	LD-LR	Redundancy
CORG – B	CD - C	CD - Cumulative	Became overall	LD-LR	Exit T1
MOVERS	CD - C	CD - Cumulative	Became overall	LD-LR	Exit T2
TERMINUS	CD - C	CD - Cumulative	Became overall	MD-LR	Exit T2
CORG- A	CD - S	CD – Single	Partial only	NC	Relationship maintained
BLUBANK	INT	Interpretation	Partial only	NC	Relationship maintained
FLEET	INT	Interpretation	Partial only	NC	Relationship maintained

* this is classified as at the point when the problem officially becomes a “dispute”

IPC = interpersonal conflict,
 CD = Company Decision Cumulative
 CD = Company Decision Single
 INT = Interpretation

SD = Short (rapid) Decline; MD = Medium term Decline LD = Long-term Decline;
 LR= Long Term relationship; MR = Medium Term relationship; SR = Short Term relationship;
 NC = No Change

Exit T1 = exit at mediation
 Exit T2 = employee returns to work then exits some time later

5.5.2 Propositions

In summary, based on the rationale outlined from the data, it is proposed that;

1. There are three main types of disputes (Dispute Types), being interpersonal conflict (IPC), company decisions (CD), and interpretation disputes
2. The Dispute Type is causally associated with differing degrees of Extent of dispute-related effects on the employment relationship;
 - (i) Two types, high-intensity, interpersonal conflict (IPC – Hi) involving a critical relationship, and company decision (cumulative) (CD-C), both affect the overall relationship.
 - (ii) The other types, low-intensity interpersonal conflict involving a critical relationship, company decision (single), and interpretation, only affect a part of the relationship.
3. The Dispute Type, and consequent Extent are causally associated with the differing types of Relationship Change.
 - (i) High-intensity, interpersonal conflict involving a critical relationship, tends to involve sudden decline of the relationship.
 - (ii) Company decision (cumulative), and low-intensity interpersonal conflict involving a critical relationship, both involve slower rates of decline
 - (iii) Company decision (single), and interpretation, involve no overall change to the relationship.

5.6 Associated aspects: Collective / Individual, and the Issues at Stake

Two other variables were associated with the differing dispute types. Given the small size of the sample, with only fourteen cases, these are framed as observations which could potentially generalise, rather than formal propositions.

5.6.1 Collective / Individual Aspects

A noticeable difference between the interpretation cases and the other two dispute types (interpersonal conflict and company decisions), concerned the collective nature of the interpretation disputes. With the interpretation disputes, the interpretation being debated was a collective issue which was being pursued by the union as a whole, and the matters in contention directly affected a significant number of other employees. The parties to the dispute were really the employer-organisation and the overall

union. The dispute was therefore a collective issue, shared by a large number of people. This was very clearly expressed in the mediation for Fleet, for example, where on the employee-side a total of seven people were present (in the very small mediation room), supporting the employee at the centre of a dispute.

As such, with the interpretation disputes, the focus tended to be more on the rules and principles that were being contested, rather than on the specifics of the individual employee. The disputes themselves tend to be much more public. For example in Fleet, it was agreed from the outset of mediation that the mediation proceedings which would normally be private and confidential, would instead be "public", given the nature of the dispute and broader interest. Similarly, Blue Bank involved a national-level organiser dealing with the employee directly throughout the issue, with the union threatening large-scale organising around the dispute, and engaging in tactics to avoid the confidentiality of mediation, in order to create publicity regarding the case.

In contrast, the interpersonal conflict and company decision disputes tended to concern only the one individual involved in that case. The issues were "individual" issues which primarily only affected that one employee; for the employee concerned it was largely "their" problem, rather than one shared by other of employees. When the union was representing an individual, the dynamics were quite different as the matter did not have the greater, strategic significance that occurred with the interpretation disputes, and consequently the level of union involvement in resource and was markedly less.

5.6.2 The Issues

Across the three types of dispute, the issues under contention also varied significantly. With the high-intensity interpersonal conflict (IPC Hi) and company decision-cumulative disputes (CD-C), the issues were of high importance for the individual employee, especially since it was usually a question of whether they would retain or lose their job. In contrast, with the company decision-single (CD-S) disputes, the issue under contention was much narrower, representing only one specific aspect of the employee's job, which on its own meant that much less of the employment situation was in jeopardy. Finally, with the interpretation (INT) dispute type, the issue under contention had far greater strategic significance for the union, whereas for the individual employee, only part of their job was at stake.

The importance of issues for employers and employees, now forms the subject for the following section, concerning the perspectives of the two main parties to an employment dispute.

Chapter Six: Perspectives of the Main Parties - Part One: Employees

6.1.1 Introduction

A distinctive feature of the current research was the case-based nature, which provided multiple perspectives on the same case, with this process repeated across multiple cases. One of the most significant benefits proved to be the fact that the researcher could obtain the 'grand overview' of a case, which incorporated the 'behind the scenes' perspective of each of the parties, and then incorporate these into an overall portrayal of a case. Even mediators, who usually had access to both the public mediation proceedings, as well as private discussions with each of the parties on their own, often commented during the research interviews about how they wondered where a party was "coming from" and what was occurring in the background. The researcher was in the privileged position of being able to gather information concerning these unanswered questions in interviews with the various parties, following mediation. This research approach produced an in-depth analysis of the dynamics occurring in each case, providing very rich information.

The primary focus of the analysis was the core employee-employer relationship at the centre of a dispute. Each of the various other parties associated with a dispute had their own distinctive perception of the issues, and their own role in the processes. These still primarily related back to the central employee-employer relationship however, as factors which influenced the dispute between the employee and employer, and the interactions associated with this.

For this reason, the following sections of the analysis are framed around the dynamics associated with those two key parties, the employee and the employer. In terms of reporting this analysis, it is necessary to deal firstly with each of the two parties on their own, in order to separate out and clearly identify the specific, and comparatively unique, dynamics occurring for each party. Therefore, this reporting commences with an in-depth consideration of the processes affecting employees in the present chapter, and then moves to explore the employer-related processes in the subsequent chapter. Once these are defined, it will subsequently become possible to work from those foundations to explore the complex interactions between the parties, as they engage in the processes of disputing.

While the perspectives of these two key parties provide the focus for this part of analysis, the perspectives of the other parties contributed significantly to each area in a number of ways, and their input is incorporated within these sections. The broad input from a variety of parties contributed importantly to the "triangulation" of findings, increasing confidence in the validity of the outcomes. For example, in the employee-section, the input of representatives proved particularly important as this

often provided corroboration of the employee's own accounts, ensuring that retrospective justification and 'editing' by the employees was minimised. The perspectives of other parties also added an extra dimension, by comparing how a specific case compared to other disputes that the person dealt with more generally, outside of the current research. This provided some gauge of the extent to which the dynamics of the cases were likely to be typical of a broader range of disputes. The involvement of multiple parties also increased the range of types of data that were utilised in the analysis. Other parties, for example, often provided copies of documents such as correspondence exchanged between the parties in the lead-up to mediation, as well as the actual submissions prepared for mediation. These proved highly valuable as they typically verified and expanded on information supplied in interviews, forming important sources which assisted in the analysis. Overall then, although the narration of this material is framed around the perspectives of the two main parties, these parties do not exist in isolation. In reality, the two "perspectives" presented here incorporate a range of other inputs which frame and support the findings within the two chapters.

6.1.2 The Importance of Decision-Making

The existing literature contains a major body of research which is derived from the foundations of Hirschman's LVE model, with a strong focus on decisions, particularly those made by employees. In the present research, for the participants, decision-making and choices were also a central part of their own understanding of disputes. These were perceived as one of the main causal elements behind the actions that occurred, and so represented an aspect of considerable significance for them. In interviews, for example, participants would typically explain the behaviours and actions that occurred in terms of how they 'read' the situations confronting them in a dispute, and how they made decisions about responding to those situations. Consequently, although the central research question was "what influences the course of an employment relationship problem?", a key sub-question became "how do the parties make decisions regarding their actions, in an employment relationship problem?". It became increasingly evident that decision-making was indeed, a central element for understanding the dispute processes. In terms of analysis, the issues associated with decision making by both of the core parties subsequently proved to be a critical element in explaining the dispute processes. For these reasons, the sections covering the perspectives of both employees and employers will include a detailed exploration of the factors influencing decision-making for each of the two parties, as a key element in the overall dispute interactions.

6.1.3 The analytic sequence that follows

The next stages of analysis that follow are therefore reported in several stages. The first stage focuses on an exploration of the broader perspectives of employees and employers, each of which is analysed separately, in the present chapter and chapter 7. This analysis addresses how employees and managers 'read' the situations confronting them in disputes, and the variables influencing their decisions. Those decisions concern both the overall dispute processes, as well as the decisions concerning the specific issues of whether or not to continue an employment relationship, and whether or not to contest an issue by commencing dispute action. From these variables, differing types of 'Orientations' are proposed, based on combinations of variables that are emphasised by individual employees and employers in their decision-making. The initial emergence of the higher level variables, which will subsequently form the core constructs in the eventual model, is also noted in passing in the separate analyses of each of the main parties.

In the subsequent chapters, (chapters 8 and 9), those core constructs are drawn together and explored in more detail. These form the foundations of the proposed model which is then outlined. From there, the model is applied in the exploration of the parties' combined interaction, which follows in chapters 10 and 11. This sequence for the subsequent stages of analysis is illustrated in Figure 5.

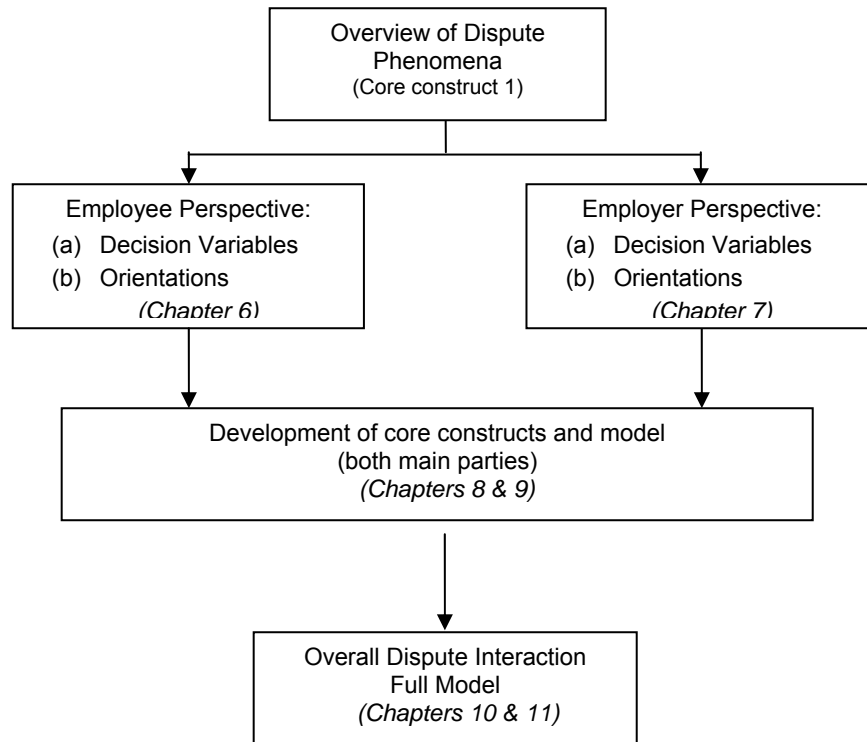


Figure 5: The analytic sequence

6.2 The Employee Perspective

The in-depth exploration of the employees' perspective drew on the interviews and other data, to focus on the issues and rationales involved as the employees dealt with the issues confronting them during their disputes. This analysis covered the period of the *overall process*, covering the series of experiences, choices and actions throughout the full sequence of the employment relationship problem, from the early stages through to the final ending of the dispute.²⁷ Within this was the specific decision(s) to take action attempting to resolve the employment relationship problem, and this is discussed in some detail.

²⁷ This included information from the period *prior* to the problem officially becoming a "dispute". Although that earlier time segment is outside the period of the research, it was used as background for the development of the eventual model.

6.2.1 The Overall Dispute Journey

Table 8 draws together a number of elements and combines these into a time-based series of steps, representing the dispute journey from the employee's perspective. This moves through the phases, from any initial in-house resolution attempts by the employee, through to commencing third-party involvement, eventually reaching mediation, and finally the post-mediation stage. The table summarises the experience of each employee, as that individual moves through the various phases, identifying the key activities, influences, points of insight or realisation, and decision-making. The sequence illustrates the overall process for each employee, as well as the common patterns across cases.

Table 8: The employee dispute journeys

Case	In-house resolution attempts	3 rd party involvement commences	Mediation	Post mediation	Primary issues influencing relationship decision
ALARMS	Discussions with owner/manger – also second business owner	<i>Realisation:</i> Health crisis occurs. <i>Decision (1)</i> Decides to contact advocate; (reluctant to act – finance & hope for improvement) <i>Overall relationship at risk</i>	Employee's advocate seeks Exit & compensation, but employer won't pay - negotiate for employee to remain with company <i>Decision (2)</i> remain with employer	<i>Realisation:</i> New role does not eventuate – duplicity of employer, who refuses pay increase. <i>Decision (3)</i> finds new job – then Exits	(-) Health and well-being (-) Family (-) Loss of trust (-) <u>Power</u> (+) Enjoys: job, hours, other employees
COPIER	Only contact with direct manager - not resolved	<i>Realisation:</i> health/stress not worth it, and inevitability of departure, had to go. <i>Decision (1)</i> use advocate. Letters but not resolved. <i>Decision (2)</i> Virtually decided to leave at this point <i>Overall relationship at risk</i>	<i>Decision (2)</i> exit confirmed - no alternative options Exit with compensation	N/A	(-) Health and well-being (-) Family (-) Loss of trust (-) <u>Power</u> (=) Labour market (+) job enjoyment, satisfaction
GAMMA	Involves HR - but HR perceived as colluding with manager	EAP assistance leads to <i>Realisation</i> of seriousness Reluctance to act/leave due to financial needs <i>Decision (1)</i> take action with union assistance – no change from employer <i>Overall relationship at risk</i>	<i>Realisation</i> (prior to mediation) duplicity of employer - health/stress not worth it, and cannot win <i>Decision (2)</i> to exit Exit with compensation	N/A	(-) Health and well-being (-) Loss of trust ("lies") (+) Labour market: financial needs, few alternatives and low pay (-) <u>Power</u> (+/-) Enjoyed advanced role
REDBANK	Initial discussions with direct manager, senior manager becomes involved	<i>Decision (1)</i> Union involved - series of discussions, union and management – but no change from employer	Issue not resolved	<i>Decision (2)</i> seek transfer to another branch <i>Realisation:</i> Personal costs too great, and cannot win <i>Decision (3)</i> locate new job then Exit <i>Overall relationship at risk</i>	(-) Health and well-being (-) Loss of trust ("lies") (-) Family (-) <u>Power</u> (-) Labour market (+) Enjoys: clients, other employees

Case	In-house resolution attempts	3 rd party involvement commences	Mediation	Post mediation	Primary issues influencing relationship decision
RETAIL	Attempts discussion with store manager(s) - transfers to other sections	Previously chose inaction for the sake of peace <i>Decision (1)</i> Involve advocate. On-site meetings, but no change by employer <i>Overall relationship at risk</i>	<i>Realisation</i> that own health is more important than job. <i>Decision (2)</i> Exit Exit with compensation	N/A	(-) Health and well-being (-) Loss of trust / loss of Respect for management; ("lies" at mediation) (-) Family (-) <u>Power</u>
WASTE	Initial attempts to discuss - lead to direct approaches to CEO – unsuccessful (multiple disputes)	Union involved in some issues, encouraged by company <i>Dispute (a) - Decision (1)</i> Decides to challenge warning about not writing to CEO	<i>Dispute (a) - Decision (2)</i> Employee declines offer of exit with compensation. Trust and confidence in company lost at this stage but persists out of doggedness.	Escalating conflict, management propose exit <i>Realisation:</i> Costs are too great and cannot win <i>Dispute (b) Decision:</i> Exit with compensation <i>Overall relationship at risk</i>	(-) Health and well-being (-) Loss of trust (-) <u>Power</u> "dogmatic", stayed for a fight
CORG - B	<i>Bypasses these and goes direct to formal action</i>	<i>Unrepresented</i> <i>Decision (1):</i> prior to mediation decides to leave - lost trust in the organisation and no energy to continue <i>Overall relationship at risk</i>	Exit with compensation	N/A	(-) Health and well-being (-) Loss of trust (-) <u>Power</u> (+) Labour market (+) job enjoyment, satisfaction
MOVERS	<i>Bypasses these and goes direct to union</i>	Union involved from outset (due to previous experiences of dealing with employer); no change from employer <i>In Dispute (a) only one aspect affected In Dispute (b) overall relationship deteriorating by this time</i>	Compromise reached [only Dispute (a) reached mediation]	Stayed due to family financial needs / avoid upheaval, plus enjoy job <i>With Dispute (b):</i> <i>Realisation:</i> company does not value / appreciate <i>Decision:</i> get new job - Exit <i>Overall relationship at risk</i>	(-) Health and well-being (-) Loss of trust (-) Family (-) <u>Power</u> (-) not valued (+) Labour market (pay) (+) Enjoys: job, hours, other employees

Case	In-house resolution attempts	3 rd party involvement commences	Mediation	Post mediation	Primary issues influencing relationship decision
TERMINUS	<i>Mainly bypasses these and goes direct to union</i>	Involves union from the outset - union negotiates reduction of penalty	Seeks compensation and reimbursement for sick leave / medical costs - partially successful	<i>Realisation:</i> "Whole episode" changes attitude to company - way they treat people, don't appreciate <i>Decision:</i> locates new job and Exit <i>Overall relationship at risk</i>	(-) Loss of trust (-) Health and well-being (-) not valued (+) Enjoys: job, hours, other employees
ROAD	<i>Long-running issue – by this stage union is fully involved</i>	Union involved with current stages/issues	Parties agree to disagree - no specific resolution	Company makes employee's position redundant – Exit (involuntary) <i>Overall relationship at risk</i>	(-) Health and well-being (+) Company provides good benefits for employees (L/M) (-) <u>Power</u>
CORG- A	Formal company investigation procedures	<i>Decision (1)</i> Appeals organisation decision in-house with lawyer - despite major costs; financial, career and stress <i>Only one aspect of relationship affected</i>	Unresolved	<i>Decision (2)</i> Proceeds to ER Authority despite significant ongoing costs. Relationship with organisation maintained - remains with employer	(+) enjoys and values the job; difficult to replace
NEWS		<i>Realisation:</i> exit was inevitable. Lawyer involved from the outset <i>Decision (1):</i> take dispute actions and negotiate Exit <i>Overall relationship at risk</i>	Exit with compensation and other arrangements	N/A	(-) Stress (-) <u>Power</u> (-) Labour market
BLUBANK		Union (national level) involved from the outset - employee strongly supported <i>Only one aspect of relationship affected</i>	Parties agree to work on the issue; employee potentially gains desired outcome	Works with management to create and gain desired job.	(+) Enjoys: job
FLEET		Union involved from the outset - employee strongly supported <i>Only one aspect of relationship affected</i>	Employee gains desired outcome (remains in current role)	N/A	(+) Enjoys: job, other employees

Step One: Realisation

One of key elements in these dispute journeys were the realisations, which often formed landmarks or turning points in the dispute journeys. Most employees experienced points of “realisation” where they identified the seriousness of their situation, coming to appreciate that the current situation was not sustainable, and that their circumstances required some form of decision and action. These points are illustrated in Table 8 (in the sections titled “realisation”). For many, there was an explicit “realisation” point which they referred to, while for others, the realisation was implicit and was evident in their comments and actions. These realisations were brought about by a variety of factors. For many, they came as a result of a crisis regarding their health or stress; in Retail and Copier, for example, the employees came to suddenly realise that they could not continue due to the major health issues which were significantly affecting their own lives, and their family. Others were surprised to suddenly discover the duplicity of their employer; for example, in Gamma, the employee came to realise that her manager would tell lies and make up matters in order to remove her from the organisation. More broadly, as the sequence of events unfolded, the employees typically discovered their employer's persistent unwillingness to change their stance in the dispute, and so the employees came to realise that there was little likelihood of being able to alter this situation.

Step Two: Decision Making

Following the point of reaching a “realisation” the employees subsequently moved to make decisions regarding actions which they could potentially take to address their situation. The specific variables involved in the decisions will be outlined first, after which the actual decision making process will be explored.

6.3 Variables influencing relationship decisions

Analysis revealed a set of types of variables which influenced the employees' decisions. Although one may intuitively anticipate that these would contain considerable variation, in fact they turned out to be surprisingly constant across the cases. These are summarised as the “primary issues influencing (the) relationship decision” in column six of Table 8. The variables form two main groups. The first were the factors which motivated employees to remain with their

current employer, (these are shown with a “(+)” sign); the second were those factors which prompted employees not to remain with (in other words, to leave) the employment relationship, (these are shown with a “(-)” sign).

Variables: “Benefits” which promote remaining: enjoyment, labour market and income, avoiding disruption for family

6.3.1 Group One: Factors which promote remaining in the relationship (the “benefits”)

The first group of factors, motivating employees to remain with their current employer, centred on the notion of *enjoyment* of their existing role, and their perceptions of the *labour market* and their need for income. These were effectively the “benefits” of remaining with the employer.

Factor (1) Enjoyment

Employees frequently enjoyed aspects of the job, and these typically included the intrinsic satisfaction of the work itself, along with social factors such as the contact with their clients and fellow employees. Interestingly, it seemed that in general the employees did like their jobs – but the problem was that they often did not like the context in which they were performing them, with the dispute(s) and conflict significantly detracting from their relationship with the organisation employing them;

Because I like the job. I actually enjoyed my job. I enjoyed the other [staff type] that I worked with, I had a good social connection with them as well. The hours were at the time good. And I didn't want to – I didn't want to start trying to upheave myself 'cause it wasn't just me, I have to think about my wife. (Employee, Alarms)

And I enjoy my job and I'm in it for the long haul. I like government jobs, they're secure. I like working in [town name], it's a great place to work

"look, I'm 52, I don't think I would get as good a job as this anywhere else, (a) because it is an okay job and (b) because I like it. I enjoy my job." (Employee, Corg A)

Because I enjoy the job and I enjoy people I'm working with. I enjoy the hours. (Employee, terminus)

Factor (2) Labour Market and Income

A number of employees had initially been motivated to remain in their employment due to the perceived negative aspects of having to seek alternative employment. These negative aspects included personal or family financial needs, the need for stability, along with uncertainty or anxiety regarding the prospects for finding other work, or even the knowledge that it would be difficult to find such work in their area (occupational and/or geographical). Employees who had been in long-term employment relationships tended to have limited knowledge of what their alternative employment options would be, and so this made the decision to leave their current employer even more daunting. By comparison, those who were only in short-term employment relationships and had changed jobs more recently, were more aware of the market for their skills.

Representatives confirmed that this pattern tended to occur with the wider groups of employees that they dealt with in dispute situations.

I'd been wanting to leave for a while but she was stressed about money and stuff like that so I stayed there. And of course the money was good there and I enjoyed the work and I enjoyed working with the other staff but the management just wasn't too flash (Employee, Movers)

Those employees who terminated their employment relationship in the post-mediation phase had the opportunity to reduce this aspect of risk by actually locating new jobs prior to making the decision to leave.

*Interviewer: so is it going to be easy to find another job or....
Employee: Yeah I've got another one. I've just got to wait for it to come up. It's over at [place name]. They're building a big village over there – three year contract over there (Employee, Terminus)*

Factor (3) Avoiding Disruption for Family / Desire for Stability

In several cases employees were influenced by a need to not only maintain a regular income, but also to avoid broader disruption for their families, by not entering into a period of change and uncertainty. Stability, in terms of employment, was valued as an important aspect of continuing the families' routines;

I'd been wanting to leave for a while but she was stressed about money and stuff like that so I stayed there. (Employee, Movers)

So I kept on believing that there would be a solution, there would be a solution, there would be a solution. I didn't want to put my wife through an upheaval because there's,

you know, there's regular income and from my wife's point of view, she's a homemaker with two sons (Employee, Alarms)

In general then, the three variables, enjoyment, labour market and income, and avoiding family disruption, tended to motivate employees to stay with their employer, despite adverse effects of the employment relationship problem that they were involved in.

6.3.2 Group Two: Factors which detract from remaining in the relationship; (the "costs")

Variables: "Costs" which motivate employees to leave the relationship: health and well-being, (loss of) trust, effects on family, (lack of) power

A second, very consistent group of variables served as "costs" associated with remaining, and so led the employees to consider terminating the employment relationship. These clustered around four main constructs, relating to the effects of the dispute;

Factor (1) Health and well-being:

Virtually all of the employees who subsequently terminated their employment relationship, reported one of the most significant factors leading to this decision concerned their own health and well-being. The precise forms of health problems varied, but underlying these was a consistent pattern relating to the effects of anxiety and stress on the employee's own emotional and physical well-being.

Everybody that I know that's left X - they always say, will never go back, will never go back - they don't worry about the money. You know, they say their health is better, their relationships are better, they are sleeping and eating and they feel healthy, they feel normal" (Employee, Gamma)

I suppose you would call it the stress level. The sleepless nights I suppose, waking up at 2 or 3, just thinking about it. What are you doing, thinking of work – you know the last thing you want to do. (Employee, Copier)

Preventive asthma stuff and two periods of stress leave – related to work stuff. (Employee, Corg B)

And it was just the stress. Just phenomenal stress of having to deal with this and without anything being done. (Employee, Alarms)

it got to the point where I said, I've got to go. Now I had rashes all over me and my skin was a mess – I didn't sleep, asthma was bad. I went to the [manager] on numerous occasions and he would always say, that's no good, we can't have that, you don't have to put up with that. But he would never ever do anything. (Employee, Retail)

"cost in my health, hugely... my family has been saying you know, you've got to get out of here because it's affecting your health so much" (Employee, Redbank)

Factor (2) Trust

Most of the employees who terminated their employment relationship also described issues that centred on the matter of a loss of trust between themselves and the employing organisation. For those employees, this loss of trust was so significant that they no longer wished to continue with the employer.

I did trust [company name] – I did trust the company when they gave me this role. Perhaps I should have asked for it in writing but I trusted them and I trusted them that if I did a good enough job that I would be compensated for that. I don't think that I would change my way of doing things because I don't want to be a distrustful person – (Employee, Gamma)

I wanted to continue working there but with the new management – top management – I was – they say their employment relationship was broken down, the trust and the confidence. At that stage, I basically lost trust and confidence in the employer to do the right thing. (Employee, Waste)

Him sitting there lying to my face. Yeah. And I can't respect someone who does that. I mean I had – a lot of respect had gone for him from - yeah from him because of the fact that I had been to him, other staff members had been to him and he still hadn't done anything. Like he would say he would – and it's very hard to respect someone who doesn't keep their word. (Employee, Retail)

Factor (3) Effects on Family

Similar issues were often reported with relation to the effects of the anxiety and pressure on employees' families. The recurring principle was that the pressure from the conflict at work was not only affecting the employees themselves, but they were also increasingly experiencing effects on their relationship with their families.

I don't see a job being that important that it makes you feel like that. I mean I've got two children and I was just an absolute cow to them. I'd get home from work and I was just so grumpy and yeah – my children shouldn't have to put up with that (Employee, Retail)

"my wife was being affected, my children were being affected and I realised I had to do something about it" (Employee, Alarms)

You know, my wife telling me the cost of my work and the kids sort of saying, what's wrong with Dad. Look at it all – it was affecting the whole family. (Employee, Copier)

I had my daughter on the phone, my son, totally supporting me and Tracey said, Mum, it is affecting your health so much. We want a healthy grandmother. We want you to have your health – it's just not worth continuing. (Employee, Redbank)

Factor (4) Power: The Lack of Influence (the employer "holds all the cards")

The final variable involved in this decision-making concerned the extent to which the employees could influence their situation. For many, there was an growing realisation that the costs that they were experiencing in their employment, represented an aspect that they could not change. The employees came to realise that they were relatively powerless as it was the employer who could ultimately determine the course of events. Therefore, employees perceived that the only option left for them was to terminate the employment relationship and make an exit.

*"I felt like I had no other choice... there was nothing else I could do... they were just not going to give way"
"that's what made this decision to take the settlement - and that was only that day that I decided" (Employee, Gamma)*

"I really had to go - it wasn't a choice - if I stayed there was only a matter of time until I got picked on enough to throw it in anyway." (Employee, Copier)

"you're so strong but if you don't fight, no one else is going to do it for you. But, knowing the powers to be I was never going to win when you look at. And I think that's pretty unfair" (Employee, Redbank)

6.4 Assessing Situations: the Overall Decision-Making Process

6.4.1 The Cost-benefit equation

The process that employees went through, in assessing their situations and making decisions, was also noticeably consistent across cases. There were two related elements involved in this. The first element was, in effect, similar to a cost-benefit analysis, although the employees did not always consciously frame it in those specific terms, with the “benefits” representing the group of factors which motivated employees to *remain* with the employer, while the “costs” represented the factors which motivated employees to *leave* the employment relationship. At the outset, employees typically experienced benefits from the employment relationship, which outweighed the costs, and so they remained with the employer. Over time however, as the dispute progressed, the employees came to realise that the increasingly high costs of remaining seemed to outweigh what had previously been the significant benefits that they had received from the employment relationship. This led them, in the first instance, to take measures to attempt to reduce those costs.

6.4.2 Attributions regarding the employer’s intentions

The second element in the decision-making process concerned the process of interpreting the employer’s actions and then assessing the implications of this for the future of the relationship. Typically the employee had experienced some action from their employer which the employee perceived as mistreatment and this formed the basis for the dispute. Based on the costs experienced, the employee therefore eventually took action to attempt to redress this perceived “wrong”. These moves initiated the dispute sequence; however the employees’ attempts at resolution were generally unsuccessful, culminating in the move to seek mediation assistance. Throughout this process, the employee gained new experiences of the employer’s behaviour, and made attributions concerning that behaviour. As the dispute progressed, the employee’s perception of the employer frequently changed, and often the employee gradually formed negative attributions for the employer’s persistent behaviour, perceiving that the employer was for example, personally targeting the specific employee (in an interpersonal conflict), or failing to value employees generally (company decision, cumulative). As the employee began to realise the broader implications of this, their “prognosis” for the future was that there was little likelihood of changing their situation, and hence the only realistic alternative was for the employee to leave the relationship. In other words, the employee not only considered the costs *currently* experienced,

but as the dispute progressed they also placed increasing emphasis on the assessment that they formed concerning the likely future of the employment relationship and the *anticipated* costs associated²⁸ with remaining. At this point, the two processes, of interpreting the employer's behaviour and its implications for the future, along with the cost benefit analysis, converged once more. The employee realised that the likely costs of remaining would be considerably greater than the benefits, and this led typically to the decision to terminate the relationship.

The case of Gamma for example illustrates this process. The employee initially believed that problems she was experiencing with her direct manager may have been a matter of misunderstanding which could potentially be resolved through the involvement of the company's HR Manager. As she explained, "I thought we'd all get together and work something out". After several meetings involving both the direct manager and the HR manager however, she came to realise that the direct manager's behaviour was unlikely to change. In fact, she discovered that simply obeying the company rules would not protect her, as the manager was prepared to tell lies and invent issues as grounds for either punishing her, or terminating her employment; "...scared me a lot because... if they can't find something, they'll just make something up". The pressure from the manager, and the increasing stress that she began to experience, meant that the costs of remaining became increasingly high as the dispute progressed; "from then on - just everything went downhill... just going to work was a nightmare - it was horrible, I must have spent \$300 on doctor's fees... in a couple of months". One of the main factors prompting her to remain with the employer was her ongoing financial expenses and her belief that she would be unlikely to obtain similar employment;

I'm single, I have a mortgage, I have a horse, I have animals. They're like my children. They're expensive like children. I've been working at [type of organisation] for fourteen years – it doesn't really qualify you for much else. So I was afraid you know. It was good money I was on at [employing organisation]. You know – [town name] salaries aren't that great. So – the money I was on at [employing organisation] was quite good for [town name]. I just bought a new car. I was scared to leave

After observing what happened to fellow workers however, and realising the seriousness of her own situation, she made the decision, just prior to mediation, that she needed to terminate the employment relationship;

*I said to my lawyer when we were walking in - I said, if they offer me a payout I said I'd like to take it"
"I felt like I had no other choice... there was nothing else I could do.. they were just not going to give way"*

²⁸ Although intuitively one would expect the anticipated costs to form part of the decision-making, the important aspect is that these only took on significance in the *later* stages of decision-making

More broadly, there was a marked contrast between the costs and benefits for each employee. For many, the benefits associated with their employment were significant; they typically liked their jobs. Therefore, the costs they experienced had to be even greater for the employees to take action - and in the cases where the disputes were not resolved, to terminate the relationship. Employees typically experienced costs in multiple areas, and these costs resulted in them being prepared to take what was often radical action;

Employee: Well now, I'm getting \$11.50 an hour.

Interviewer: A big drop?

Employee: Yeah, yeah it's a huge drop. And – but I was willing - and I start at 8.00 o'clock and finish at 4.30 on the dot. And so it's one of the things I like about it and I do miss the overtime... Interviewer: But you were prepared to take that job without knowing the pay packet because?

Employee: Because family – more important...yeah and less stress

6.4.3 The Sequences

With the exception of those employees who remained in ongoing employment relationships, the sequence of events was similar for most employees. The two main issues that differed were (a) the point in the decision-making process that the employees had reached when they entered into the current dispute-sequence, and (b) the rate or “speed” with which subsequent decisions were made. For example, in the company decision, cumulative disputes, such as Corg B and Movers, the significant deterioration in their employment relationships prior to the current dispute meant that the employees were already well aware of their situation and had virtually reached a decision to terminate the employment relationship. In contrast, with a high intensity, interpersonal conflict case such as Redbank, the employee was initially highly optimistic regarding the prospects of resolution, and went through a more lengthy series of stages, with an evolving process of realisation and decision-making, before eventually reaching the final realisation, and decision to leave, in the post-mediation period.

The cases where there was no change in the employment relationship, and the employee remained with the employing organisation long term, formed the exceptions to the cost-benefit decisions described. These were the interpretation (INT) and company decision-single (CD-S) dispute types. In those cases there was very little recognition of the negative aspects of remaining with the organisation, and instead the focus was on the positive aspects of remaining in their current role. The costs, for these employees were clearly lower than for the other employees, and as such the costs did not outweigh the numerous benefits of their jobs

6.5 Broader Employee Orientations and the Issues in Contention

6.5.1 Identifying Orientations

While the process of assessing their situations and decision-making was consistent across the cases, certain employees placed greater emphasis on specific variables in their decision-making. The particular focus an individual's consideration formed what was termed that person's "orientation", reflecting the particular variable or set of variables which the employee was placing greatest value on in dispute-related decision-making.

The actual issues that were under contention were also important, and these varied with the dispute type and employee orientation. The orientations, and the associated issues, were clustered into several groups, which were closely related, but not identical to, the dispute types.

Orientation (1) "Getting Out"

The employees involved in high level, interpersonal conflicts (IPC-Hi) generally considered their disputes to be centred on what they perceived as highly dysfunctional relationships. The focus of their decision-making was therefore to do with relational issues. In addition, this group were experiencing considerable personal costs in of areas such as health and well-being, and so they placed considerable emphasis on these aspects. As they discovered their situations to be increasingly intolerable, their attention *moved* more and more towards the urgency of "getting out" of those situations.

The core issue was a diffuse, relational matter, rather than any specific single issue, and consequently the type of resolution they were seeking could be considered a "relational" type of resolution, which often had a significant emotional component. For example, in Alarms, the employee proceeded to mediation in order to make the employer "accountable", which meant using the mediation session as a time to tell the employer how s/he (the employee) personally felt about the way that s/he had been treated throughout the employment relationship.

The "issue" represented very significant, perceived injustices in terms of either the threat, or actual effects, that the employer's actions had on highly important interests, including the employee's fundamental well being, as well as their respect and security.

Orientation (2) "Getting a Deal"

Orientations however, were not totally synonymous with dispute types. One employee who was also involved in a high-level interpersonal conflict, focused on different aspects in decision-making. The employee in News was in a senior role, and framed his decisions in terms of a very calculative assessment of the costs that s/he was incurring, ranging from harm to his reputation, through to the costs of selling a house and relocating to another area. Although the problem was relational, the nature of the resolution sought was largely a "commercial" transaction and so the discussions in mediation centred on negotiating a "deal" to compensate for the employee's costs and losses.

The "issue" at the centre of the dispute involved a significant injustice which affected important interests for the employee, with the loss of his job. The problem was addressed through a comprehensive, and higher than average, settlement – rather than the more 'relational' focus in the other interpersonal conflict disputes.

Orientation (3) "Getting Fairness"

With company decision, cumulative (CD-C) disputes, the slower, long-term relationship decline meant that the employee had already experienced a series of previous disputes based around company decisions. For those employees, the current disputed issue was in many ways, symbolic of the employee's underlying discontent with the manner in which the company treated its staff. The focus of decision-making for these employees was primarily on the specific matters of fairness, the perceived absence of trust, fair dealings, and a sense of not being valued. The disputed issues were often framed in terms of being "a matter of principle", or fairness, as the employees sought specific outcomes which they considered to represent "just" or "fair" dealings. The type of resolution sought was therefore a combination of both specific outcomes, as well as seeking to "prove a point" (*employee Terminus*), such as having the employer admit that they had been wrong and give the employee a more "fair" deal. These employees did share the same experience of other "costs", such as matters of health and well-being, as the other categories however, this group placed greater emphasis on the fairness-related aspects.

The central "issue" in the dispute therefore concerned matters of important principles, justice and equity, while also affecting highly important interests - both the specific terms and conditions that were being disputed, as well as the broader employment relationship.

Orientation (4) "Getting Specific Rights"

In Corg A, Blubank and Fleet, the employees were focused on a single, specific issue. These issues concerned matters of rights (collective rights in Blubank and Fleet), entitlements (Blubank), and in Corg A, the (in)justice of an outcome from a specific disciplinary decision. Although involving two different dispute types (CD-S and INT), these employees all shared the pattern of keeping the disputed issue as one discrete "compartment" in their working relationship, and so their decision-making focused around obtaining these specific rights. Similarly, as the dispute concerned only one specific issue, resolution also focused largely on dealing with that issue.

The "issue" in these situations concerned matters that were of strategic importance, both for the employee (in Corg A), and in the cases of Blubank and Fleet, for the union as well, involving the same issues of principles, and justice. For example, in Fleet, the manager reported that "*what got their tether up*" was *denying local agreements*". Hence the issue focused on defining the specific rights associated with those agreements, and ascertaining whose interpretations were correct. While the specific interests at stake were important for these employees, these were slightly less threatening than in the other categories, where the overall employment relationship was in jeopardy.

Overall then, these four orientations formed particular perspectives which influenced the decision-making approaches of the employees, and set the groundwork for shaping the style of dispute handling that would follow in the interactions with employers.

Generalisability of Orientations

Interestingly, the categories demonstrated in these cases were confirmed by representatives as being typical of what occurs with a wider range of employees. Even the somewhat surprising focus on relational issues and resolution in "getting out" was reported as repeating what happens with other employees, and in some cases the relational focus could almost exclude other aspects of compensation;

"in fact a lot of - I've actually had some of my members say to me, I'm not interested in the money, I just want to look that guy in the eye and say, 'you treated me badly, I think you're a prick....what you did to me wasn't fair and it wasn't right. I don't care what your lawyer here says, he might have all the justification in the world but I don't think' - and it's the looking the guy in the eye and saying that, whether they get any money or not at the end of the day, it's - I think most of the cases I do, workers are more interested in having

a say and looking the guy in the eye and saying, that's not right what you did to me. Forget about the money at the end of the day. In fact I've had some that say... 'stick your money up your arse, don't want it'". (Union representative, Movers)

6.5.2 Sub-area: Decision-Making Regarding Taking Dispute Action

The specific decision to take the dispute or "grievance" action constituted a narrow subset of the overall decision process. This included decisions to initiate dispute action within the organisation, or to involve a third-party representative, or to pursue mediation. Again, this involved an assessment of the anticipated "costs" which could deter an employee from taking action, compared to the anticipated "benefits" of what the employee hoped would be achieved.

The variables representing "costs" in the overall decision-making processes, such as labour market and income, again served as deterrents which prompted employees to *not* take action from taking action. Specifically, these included potential costs such as those associated with not wanting to upset the status quo, for example avoiding further aggravating the conflict with the manager;

I sort of – I didn't want to bring anybody like [advocate] in – I wanted to try and keep some kind of peace – I mean to bring [advocate] in was a last resort. I knew that that was just putting a real cat amongst the pigeons basically.

Employee: I chose to do nothing for quite some time.

Interviewer: because....

Employee: Just for the sake of peace.

Interviewer: what would have happened. What did you think – anticipate what would have happened?

Employee: She would have made my life absolute hell – I mean it was bad enough I didn't want it to be any worse.

Conversely, among the variables which did prompt the employees to take action however, of particular significance however was the notion of Justice, or to use the in vivo term, "fairness". This was repeated consistently throughout the interviews, and although expressed in slightly varying ways it related back to the same central concept. Consistent with the concept of organisational justice (Folger and Cropanzano, 1998), employees seemed to have a standard of fairness, and rightness or wrongness; there was an expectation that the employer's actions would be fair or "just", doing the "right thing". Employees consistently considered themselves to have been wronged; the employer had done something unjust or unfair. Some framed this "justice" or "fairness" as a matter of "principle", and most importantly, this formed the motivation for taking action to redress this perceived lack of fairness or justice.

A summary of the elements involved in this construct are shown in Table 9.

Table 9: Variables affecting employees' motivation to take dispute-action – Justice

Construct: Justice		
Case	Terms used	Employee goal
Terminus:	"a matter of principle", "the principle...I didn't do anything wrong" innocence, "prove a point", "want people to be fair", "I expect everybody to be treated equally"	seeking fairness via an apology, "wanted him to say that he was wrong and apologise"
Blue Bank:	"sure of my grounds", "what I was doing was just", "I had been shortchanged", "had a job taken away that really belonged to me"	seeking justice by getting the job
Corg A:	"principle", innocence	seeking justice / fairness by proving innocence, and "it's not about the punishment it's about the original decision"
News:	has been wronged, in terms of reputation damage, and other harm, "that's what struck me as unfair, the scales were weighted"	seeking fairness via restitution and compensation - "if I don't walk away with something to reflect the fact that I've been wronged, it's completely unfair"
Movers:	"fighting for what I was owed and deserved", "treat staff like rubbish,	Seeking fairness through obtaining the terms and conditions that were perceived as owed
Redbank:	"unfairly treated" - partly doing this also for her colleagues	Seeking fairness for the unfair, biased appraisal
Waste:	"company won't do what it has to do, to do the 'right thing'; not being a "good employer"	
Alarms:	Making the employer accountable: "I wanted X to be accountable for what he did", "mediation was the means for me to make him accountable"	seeking fairness; "I wanted to get, get something back from him, whether it was financial or recognition"
Fleet:	doing it for self, and for colleagues	
Corg B:	Unfair treatment, "cards marked"	sought fairness through (1) acknowledgement (2) apology
Construct: Teaching management a lesson, regarding injustice		
(Redbank)	"time that management knew how unfair this was"	
(Terminus)	"to prove a point to the company that you can't walk over people"	
(Waste)	- to "wake the company up" (regarding their injustice?) "Wanted communication, which is two ways"	
(News)	to teach the employer	
Conveying a message:		
(Retail)	- make the company aware of problems with this manager, and "want them to treat their staff better": "if Auckland got involved, then they would be aware of what's happening at X. they will be aware of what Y is like as a manager"	
Hoping that this would prompt action from the wider company:		
Copier:	"I got the letter organised, I thought, this will make them sit up and take notice. But nothing happened. So that's when I got alarmed. If that's the attitude about it all, what more do you have to do to get them to say something"	
Waste:	"my expectation was from writing to the Chief Executive that a manager would come down and say [employee name].. what the heck is going on, and we would talk from there. And my expectation was I guess, to get decent communication going"	

There were several associated themes among the employee's motivations. The first was the issue of conveying a message, or teaching management a lesson that they cannot do unjust or unfair things. Alongside this was a similar motivation of "conveying a message" in the sense of bringing attention to problematic or unjust issues so that these could (hopefully) be rectified. For example in Retail, the employee sought to make the corporate office of the organisation aware of the problem of bullying occurring with a local manager;

I thought it had to be done because I knew Auckland would have to get involved then. And then if Auckland were involved, then they were aware of what's happening at [site] – they will be made aware of what she is like as a manager.

Another group of factors that also prompted employees to take action centred on a sense of anger, revenge, and determination - not wanting to let the other side impose their will - fighting back. To some extent, this was in the background of many cases;

That's almost where I was. Do I leave and let them away with it? For me and the kids, no – they can't do that to you. All they are doing is coercing you to retire. That's when I said, so what do we do. [Employee, Copier]

Justice therefore represented a significant variable. It was common to virtually all cases, and was a more abstract and theoretical variable than many others. Justice formed an important motivation for employees to take action in disputes, as they sought to address the perceived unfair dealings that they had received from their employer. The function of justice involved the future-focused appraisal of whether the employer could be trusted, and was likely to behave in fair, or "just", ways in future dealings. Employees typically expected their employers to deal with them fairly, however if the employee interpreted the situation as indicating that the employer was likely to persist with other types of unjust or unfair dealings in the future, then the employee no longer believed that the employer would act in a just manner.

In terms of the chronological progression or 'time-line' of disputes, the focus of the research is on the period once an employment relationship problem had become a "dispute", with the introduction of a third-party, moving through into mediation. The variable of Justice functions mainly at the outset, propelling the parties *into* the dispute process, motivating them to commence dispute action. After this point however, the influence of Justice diminishes.

6.6 Core construct: Power

6.6.1 The theoretical significance of Power

A theoretically significant part of the analysis involved the identification of higher level variables from among those variables already outlined. This involved using a process based on "factoring" (Miles and Huberman 1994), which involved exploring the relations between the existing variables, then seeking *broader constructs* that accounted for the variables already identified. This was an inductive or "bottom-up" process, similar to the approach of grounded theory (Locke 2001), which led to the identification of a smaller number of over-arching or core variables which were broader and more theoretical, as part of the creation of an overall conceptual structure. In the process, a "tree" structure was used to represent the relational structure between variables and there was an ongoing comparison of the variables, as well as returning to the original data to test the "fit" of proposed variables. For a higher-level variable to be classified as a "*core construct*" it had to hold significant explanatory power, to the extent that it could account for other lower-level variables, and also form one of the small number of constructs that together comprised the overall model.

Power was a higher-level variable that emerged which did have the potential to serve as a core construct. Power essentially consists of the ability that one party has to influence the other party to do something that it might otherwise not do, or more specifically, the classic definition of Dahl (1957) was used; "A has power over B to the extent that he can get B to do something that he would not otherwise do" (Dahl 1957, pp.202-203).

The construct of power was derived from both the analysis of the relationships among the variables, as well as from accounts of the parties themselves. From the perspective of the employees, among the costs that they experienced, the realisation of their powerlessness was typically the major discovery. As they experienced increasingly high costs in the specific areas of health and well-being, mistrust, and effects on the family, became increasingly high, they also developed a growing awareness that they were unable to influence these areas. They were, in a sense, powerless to change these problems, and thus the *key*, most influential, variable associated with an employee's overall situation was that the employee lacked power. Despite repeated attempts, using multiple avenues, employees still lacked the ability to influence their employer in order to rectify the perceived mistreatment, and resolve the dispute in a manner which preserved their own interests. If they had been actually able to rectify the problems in the specific sub-areas, then the overall situation would have been more tolerable. The increasing perception of powerlessness meant however, that employees also anticipated continuing costs in

the future which would outweigh the benefits, and the prognosis was that there was little hope of changing or rectifying this. Returning to the case of Gamma, the employee rather aptly summed up the situation with the phrase that the employer 'holds all the cards' and so the employee cannot win, or change the situation;

"I am a fighter - I don't like being treated unjustly but it gets to a point when you think you just can't fight people - they hold all the cards...that's what made this decision to take the settlement

Power could also operate in the opposite direction. Where parties were successful in resolving the disputes and obtaining their desired outcomes, this was associated with a higher level of employee power, with the greater extent to which the employees were able to influence their employer.

By comparison, although Justice represented another variable which also had a significant degree of influence, it was limited in scope, affecting mainly the early stage of the initiation of dispute action(s). The lesser explanatory value of Justice meant that it did not serve as a "core construct" in the way that Power did. In contrast, Power functions as a core construct *throughout* the dispute process and serves as a key construct in accounting for the variations in outcomes with the disputes. A lack of power functioned as a major influence in cases where the disputes were not resolved, whereas in cases where employees did have significant power, they achieved more favourable outcomes.

6.6.2 Power in Employment Relationship Problems: Extreme cases

In case studies, learning can occur from 'extreme cases' (Eisenhardt 1989; Eisenhardt and Graebner 2007; Yin 2003; Zott & Huy 2007). At this point, it is useful to pause and make some preliminary observations regarding two seemingly unusual cases where employees had perhaps the greatest influence, satisfactorily resolving their disputes and remaining in an ongoing employment relationship (Blubank and Fleet). As such, these could therefore be perceived to be "high" power situations. These contrasted strongly with most other cases where employees had only limited influence on their situations, and therefore could be considered to have only low power, overall. This discussion will serve to set the background for the detailed development of the concept of Power, including more fully defining "low" and "high" forms, which will occur in a subsequent chapter.

The cases of Blubank and Fleet were situations where the employees were strongly supported by collective groups (or 'collectives'), with unions seeming to provide an important source of the employees' power. The differences between these two apparently higher-power cases, and the cases where employees had low power, emerged at a number of levels. Firstly, in terms of the initial decision to take dispute action, the organisational environments were both ones where conflict was accepted (provided it was within standardised procedural frameworks), and the employees expected that there would not be any significant retribution for taking dispute action. The employees had a comparatively strong sense that their jobs would not be jeopardised by their initiation of a dispute resolution procedure, and so it was comparatively less costly to take action.

Interviewer: Does the process of organising a meeting with the union to dispute the [manager's] actions bring risks for employee?

Employee: "No - not in the [organisation]. Not in the [organisation]. The - for him to sack me, very, very hard..."

The employees' sense of power was associated with the collective support that came from their involvement with the union. The employees had a clear sense of the potential influence that they could bring to bear in relation to the disputed issues, and this was linked to the resources, solidarity, and support that they were receiving from the union. This was in marked contrast to the cases of employees with low power, where the employees were largely individuals, on their own and who experienced an increasing sense of powerlessness as disputes progressed. In the high-power, collective cases, the employees were partly motivated by a sense of collective loyalty, with the employee in Fleet explaining "part of it's my, for me, what I wanted first and then what, preferably what the union and all the men wanted second". The employees' sense of power was linked to the fact that it was not just "their" personal dispute, for them to defend on their own. In a sense, it was the "union's problem" and an issue where the union was ready to invest considerable resources, with the larger number of supporting union members present at the Fleet mediation, including the union's National Secretary²⁹. These disputes were being pursued strongly by the union, as matters that not only affected these specific individuals, but also had much more far reaching significance for a wide range of other employees. The features of power associated with these types of situations will be explored further in subsequent chapters.

²⁹ This situation is to be distinguished from cases such as Redbank, where the employee was represented by the union, but the issue under contention only concerned that particular, individual employee. In those situations, there was a much lower level of support from the union.

6.7 Summary

6.7.1 Summary of key points

The employee perspective evidenced a range of variables which are associated with the employees' perception of their situations, and influence the employees' decision making. These are shown in Figure 6, with the "benefits" or variables likely to motivate an employee towards either inaction, or remaining in their current employment, on the left hand side of the diagram. The "costs", which can motivate an employee to take action, or eventually terminate employment relationship, are shown on the right hand side of the diagram.

The higher level variable of Power emerged as a variable which contributed to ultimately determining whether or not the employee was able to influence their situation and resolve the dispute in a manner which protected their own interests. Among the variables identified that thus far, Power proved to have greatest overall explanatory effect and formed a potential core construct.

**Reasons for taking action –
contesting or leaving**

Reasons for remaining or inaction

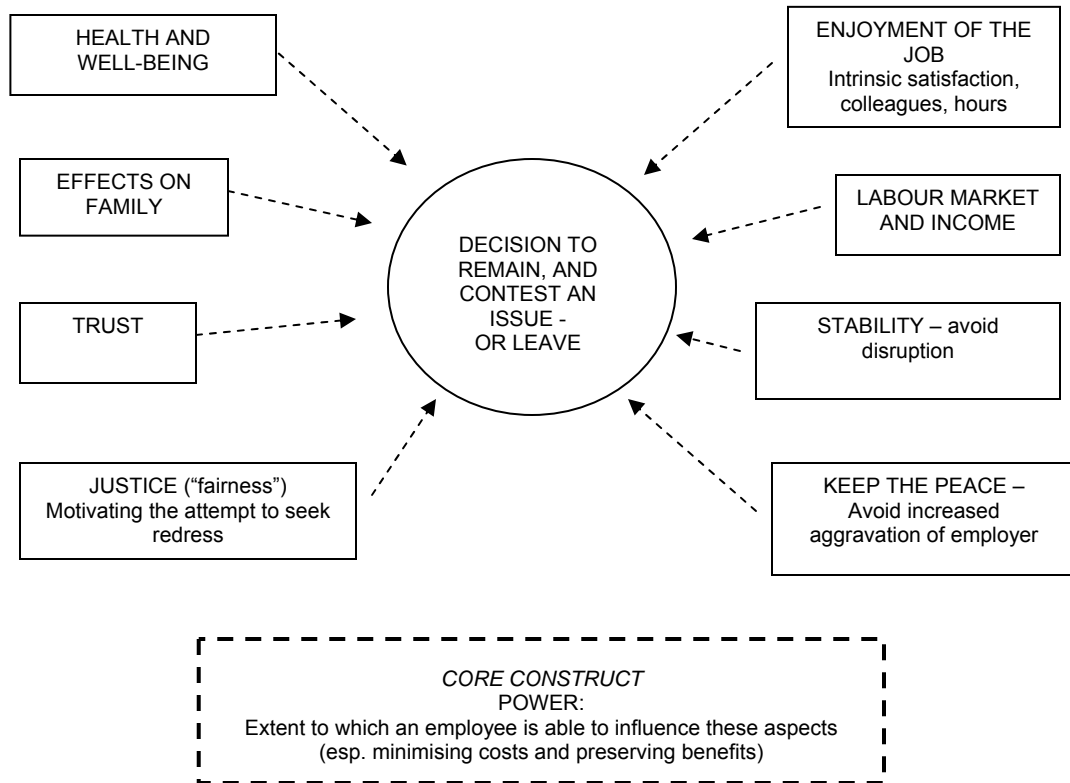


Figure 6: Employee Decision Making Process – Decision to remain and contest an issue

6.7.2 Propositions

Overall then, Power was a significant element in determining the extent to which employees were successful in actually achieving their goals of redressing perceived mistreatment, and protecting their own interests. Power therefore, is proposed as a *core construct*, significantly determining the course of the employment relationship problems, from the overall employee perspective.

Therefore, drawing together the overall discussion regarding the employee perspective, the following propositions are made;

1. Employees are likely to be motivated to remain in their employment by “benefits”, in the form of enjoyment of the job, labour market and income issues, including the availability of outside

jobs offering similar pay, and a desire to avoid disruption within the family

2. Employees are likely to be motivated to take dispute action, and potentially terminate the employment relationship, by “costs” in the form of adverse effects on the employee's own health and well-being, adverse effects on their family, the extent to which trust (in employer) is compromised by the employer's actions
3. The employees' decisions regarding taking dispute action, and terminating employment relationship, are influenced by the relationship between the perceived costs, and benefits, of remaining in the relationship
4. The overall extent to which a party is motivated to take dispute action is related to the extent to which a party perceives a need to redress an apparent lack of justice (injustice)
5. The overall extent to which an employee is likely to be successful in resolving a dispute in a manner which preserves their own interests, is related to the extent to which that employee has power, in the sense of being able to influence the other party
6. In situations where there is a balance of power between employer and employee, there is an increased likelihood of the employment relationship being maintained – conversely, in situations where there is a power imbalance, with the employee having lower power than the employer, there is a greater likelihood of the employment relationship being terminated

In addition, it is also proposed that the Employee Orientation will also affect the subsequent interactions between the employer and employee. The precise details of this however, will be discussed in relation to those interactions.

From this analysis of the employee perspective, the focus for the next chapter shifts to the employer perspective, the other main party in employment relationship problems. The tentative propositions that have been observed will lead to a more detailed discussion of the core constructs in chapter 8, where the theoretical model is developed.

Chapter Seven: Perspectives of the Main Parties - Part Two: Employers

7.1.1 Introduction

The following explores the perspective of employers – or managers as they will be referred to when they are a single individual - as the other main party in an employment dispute. In order to set the foundations for the in-depth analysis of the processes that will follow, it is useful to firstly provide an introduction to the part that managers play in disputes, and particularly the differences between the situations of employees and employers.

7.1.2 Differences between employee and employer informants

While the aim of the research was to use similar analytic processes for both employees and employers, in reality the employer perspective and the type of information that could be obtained from the employers was often quite different. One of the key differences was that, unlike employees, individual managers were not consistently involved throughout the overall course of a dispute. Instead, the managers involved often changed during the course of a dispute, and as a consequence individual managers tended to offer only a 'fragmented picture', covering only certain phases of the dispute that they personally were involved with. This was significantly different from the single, comprehensive timeline provided by employees. Changes of manager occurred across the phases of a dispute, and consequently multiple individuals were involved from the company's side of the dispute. With the long-term relationship declines associated with Company Decision Cumulative (CD C) disputes for example, there could be several managers involved during the years of the prior history and earlier disputes. Even with the shorter timeframes such as those associated with Interpersonal Conflict (IPC) disputes, as the dispute progressed, the individuals representing the organisation changed, with different managers becoming involved. This was often required by company policy; for example, in Road company policy required that only Area Managers deal with discipline and disputes. Similarly, many organisations, (for example, Copier, and Gamma, Redbank, Retail, Corg B, Fleet and Blubank) required that their HR section deal with particular types of issues, especially disputes and discipline.

7.1.3 The Individuals Involved at Phases

Examples of the changes of individuals representing the companies' management are illustrated in Table 10. The typical process is that the direct manager is usually involved as an employment relationship problem first commences, however as the problem moves towards becoming a dispute, other advisers also become involved, particularly either HR staff or external advisers. From that point, there are two separate patterns. Firstly, with smaller businesses the same manager continues to be involved throughout, as shown in News, Alarms, and Movers. With larger organisations however, as the dispute progresses, senior personnel and corporate office staff begin to take over the handling of the cases.

Table 10: Managers involved at main stages of dispute process

Case	Initial in-house	Pre-Mediation Response	Mediation
ALARMS	Employer Co-owner	Employer Advocate (extl)	<u>Employer</u> (over-rules advocate) Employer advocate <i>DECISION: TERMINATE - no settlement, force e/e to leave later</i>
COPIER	Direct Manager <i>DECISION: Perform manage e/e out of role</i> (HR Corp advises)	Direct Manager HR Mgr (Corporate) advises	Direct Manager <u>HR Manager</u> <i>DECISION: Negotiated exit in response to e/e's initiative.</i>
GAMMA	HR Manager Direct Manager <i>DECISION: Remove e/e from current role</i> Advocate (extl) advises	HR Manager Direct Manager Advocate (extl) advises	HR Manager Direct Manager Employer advocate as spokesperson & a decision maker <i>DECISION: TERMINATION, settle – desire to remove e/e</i>
REDBANK	Direct Manager (HR advise)	Direct Manager Area manager (HR advise)	(IPC - Direct Manager concerned is absent) Area Manager <u>HR Advisor</u>
RETAIL	Store Manager	HR Mgr Corp advises	Store Manager (IPC - Direct mgr concerned is absent) <u>HR Advisor</u> (corporate) approval from <u>Corporate HR Manager</u> (by phone) <i>DECISION: Negotiated exit in response to e/e's initiative.</i>
WASTE	Direct Manager General Manager	Direct Manager General Mgr HR Mgr Chief Exec	<u>General Mgr</u> (initially over-rules advocate & allows return) HR Mgr Advocate (extl) advises <i>DECISION: TERMINATION, exit settlement</i>
CORG – B	Area Manager <i>DECISION: best option is for e/e to leave</i>	Regional Manager ER Mgr (Corporate) HR Advisor	Regional Manager <u>ER Manager (Corporate)</u> HR Advisor <i>DECISION: Negotiated exit in response to e/e's initiative.</i>
MOVERS	Direct Manager Advocate (extl) advise	Direct Manager Advocate (extl) advise	Direct Manager Advocate as spokesperson and a key decision maker

Case	Initial in-house	Pre-Mediation Response	Mediation
ROAD	Direct Manager	Direct Manager Area Manager	Direct Manager (<i>IPC - Direct mgr concerned is present</i>) <u>Area Manager</u> ER Manager
TERMINUS	HR Manager Direct Manager	HR Manager	<u>HR Manager</u> Lawyer
CORG- A	Senior manager (investigation)	Regional Manager ER Mgr Corp advises HR Advisor	Regional Manager <u>ER Manager</u> (Corporate) <i>SHT-DEF</i> HR Advisor
NEWS	Direct Manager <i>DECISION:</i> <i>Terminate</i> Lawyer (extl) advises	Direct Manager Lawyer (extl) advises	<u>Direct Manager</u> Lawyer (extl) <i>DECISION: Pay settlement agreed</i>
BLUBANK	Direct Manager Regional Manager	Direct Manager Regional Manager ER Mgr (Corporate) advises	Direct Manager <u>Regional Manager</u> <u>ER Mgr (Corporate)</u>
FLEET	Direct Manager	Direct Manager Regional Manager	Direct Manager Regional Manager <u>HR Advisor</u> (Corporate)

While there were often multiple individuals involved, typically one person would have greater influence at each stage, functioning as the main decision-maker³⁰. Where there was clearly one person who acted as the decision maker, this person is underlined in the Table 10. It was not always possible to identify the specific person however, and in some cases the decisions seem to be jointly made, as for example with Gamma. It is interesting to note that the actual final decision maker may not always have been involved directly in handling the dispute, and did not have the first-hand knowledge. For example, HR staff (particularly corporate level HR staff) may only become directly involved at the final stage, yet they would often function as the decision-maker at the mediation settlements, as illustrated in Copier. In some instances the ultimate decision-maker may not even be present at the mediation; for example in Retail and Corg B, the HR Advisors contacted their national managers by phone in order to reach final decisions concerning mediation settlements.

It is also interesting to note that in some cases, key individuals were not present as the disputes progressed. For example, even though the direct managers were the focus of the interpersonal conflict disputes, in the cases of Retail and Redbank, the direct managers were not present at mediation.

³⁰ The actual decision is also shown in this table, (in italics and grey); details of this will be discussed later.

While the management side of the dispute was complicated by the number of individuals involved, and the fact that these people were not able to give the same full, longitudinal view as employees, the managers' perspective was in some respects broader. Where employees focused more on their personal dispute as the main topic in their interviews, managers instead discussed their decision making in terms of much broader business concerns, producing a rather different model of decision making for disputes. The model of manager decision-making therefore contained greater variety and greater complexity, partly as a result of the range of individuals, and roles represented.

7.1.4 Espoused values versus actual behaviours?

During interviews managers reported their decision-making processes. On their own, these self-reports could have contained a potential risk for biased, self-serving accounts, with informants reporting 'ideals' rather than actual processes. These risks were however countered by the fact that the researcher was present as an observer during mediation, to witness the actual behaviours evidenced throughout the course of the disputes, and this even extended to the researcher being present while the parties were in caucus during their private, decision-making discussions. In addition, other parties also provided information which largely confirmed the managers' reports. Overall, the managers interviewed were surprisingly open and their reports had a close correlation with the actual behaviours

7.1.5 Variation among managers in terms of experience, and strategy

Among managers, there was considerable variation in the nature of their approaches to disputes, ranging from basic reactive modes through to much more sophisticated and strategic approaches. In the interviews, managers such as the owner/manager in Alarms, simply recounted what had happened, with a very reactive sequence, as the manager tended to simply respond to the employee's actions. In contrast, in cases such as Waste, Blue Bank and Road, the managers were able to articulate a very comprehensive 'strategy, with plans and rationale for dealing with employment problems and disputes. These managers could identify what they perceived as the key types of issues involved, and discuss the implications for handling disputes at a general level, rather than simply discussing the specifics of a single case.

The more reactive managers, who seemed to lack a coherent strategy, were typically those who had less experience in both management, and in handling employment disputes. For example, the local manager in Fleet made frequent reference to the fact that he was a new manager and

had been in the job less than twelve months. Similarly, the case of Alarms involved an owner/manager of a small business who had no prior experience of dealing with employment disputes.

Allowing for those differences, the overall pattern of analysis that follows is similar to employees, focusing firstly on the broader manager (employer) perspective, including how managers 'read' the situation that is confronting them in disputes, and the variables influencing their decisions. For employers, those decisions concern both the overall dispute processes, as well as the decisions concerning two inter-related topics of whether or not to continue an employment relationship, and the specific question of whether or not to contest an issue by commencing dispute action. Secondly, from these variables, differing types of Orientations are again proposed, based on combinations of variables that are emphasised by individual managers in their decision-making.

7.2 The Employer Decision Making Process

The employer (manager) decision-making process is complicated by the fact that there are really two separate types of decision processes involved. The two decisions occur in parallel – that is, they are not sequential - and they overlap to some extent;

- (a) The first decision concerns the question of whether to retain the employee, or to terminate the relationship and remove the employee. This decision can be made at different points during the dispute sequence; for example, some employers may decide to terminate the relationship from the very outset of the dispute (see News as an example), whereas others only make this decision at the end of the dispute sequence (see Retail as an example). The various points are illustrated in Table 10. In many cases, this question was an ongoing consideration throughout the progression of a dispute.
- (b) The second process concerns the question of whether to actively dispute (defend) an issue, especially an alleged grievance. Together these aspects will be subsequently incorporated into a proposed model of the employer decision making process, concerning the question of whether to take dispute action and contest an issue.

The processes involved are particularly important, as they have a significant influence on the course of disputes. The situations where the employers actively initiate the termination of a relationship involve a process that runs counter to traditional perceptions regarding the function of employment protection law. This raises serious questions regarding the effectiveness of this type of legislation, and the degree of protection that is available for employees.

7.3 Decision One: Continuing or Terminating the Employment Relationship

The "core decision" that emerged for many managers throughout the dispute sequences was the question of whether to maintain or terminate the employment relationship with the employee. While this was a core decision, there were several main variations with very different employer decision making processes involved. One of the key differences in terms of decision making concerned which party initiated the termination of the relationship – whether the employer was the initiator of the departure, or whether the employer was mainly responding to the employee's initiation.

7.3.1 Type (a): Employee-initiated terminations

In cases where the employee was the party initiating the move to terminate employment relationship, this usually occurred in the later stages of the dispute sequences. One subgroup concerned those cases where the termination occurred some time *after* mediation, with the employee leaving for another job. The managers in those situations did not openly make any decision to terminate the relationship, nor did they make any dispute-related payment; Redbank, Road.³¹ Movers and Terminus illustrate this type of scenario. In that sense, there was no 'decision' by the employer to instigate a termination of the relationship.

In other cases, the termination decision was proposed by the employee *at* mediation. In those situations, the employer agreed to a settlement based around this, but without any explicit indication that they (the employer) had been engineering the employee's departure; Copier Retail, Corg B illustrate this type of pattern. The employee, or the employee's representative, was portrayed as the initiator, while the employer's role focused more on reacting to the proposal from the employee and reaching agreement over the settlement. In terms of timing, although the employers in this category may have been contemplating the possibility of terminating the relationship as an option to explore in mediation, for them the actual decisions and settlements only occurred around the mediation stage. The type of decision making in these situations was very different from the employer-initiated situations, as it focused on responding to the employee's actions and proposals at mediation, considering how they affected the possibility of continuing the employment relationship.

³¹ This case later became a redundancy, ostensibly due to a decision to outsource the type of work

In cases where there was an agreed settlement, the decision process centred largely on the employer acknowledging what had become evident regarding the state of the relationship, in the period leading up to mediation, and during mediation itself. The HR Advisor in Retail illustrates this;

"I didn't go down there with that idea, to provide a monetary settlement. But, after those kinds of outbursts (in mediation) 'you're a liar', and there was no way we were going to be able to get X back into that store...all you end up doing is having a constructive dismissal case three months down the track"

In another example, Corg B involved a lengthy history of disputes with a variety of managers, however it was largely at the time of receiving the letter outlining the employee's grievance (in the lead up to mediation), that the Area Manager reached the realisation that "this [person] needs to go...it's time you had to go for the team as well as from her perspective as an individual", while the more senior management team representing the organisation reached the same decision during mediation.

The pattern in these latter situations is that the dispute progresses through the early and pre-mediation phases, to finally culminate in a decision regarding termination, either at mediation, or in the post-mediation phases. The termination is largely initiated by the employee. For employers in these situations, the primary criterion for decision-making in these instances is the nature of the relationship and whether it is feasible to continue. This tends to involve an assessment of the employees' expression of their dissatisfaction with the current situation, and the question of whether this situation is likely to be resolved. Although these factors are similar to the employees' perspective, for the employers there is also an assessment of the likely harm to the business if the employee remained.

7.3.2 Type (b): Employer initiated terminations

A smaller group of cases however, involved departures that were either initiated largely by the employer, or at least, significantly supported by an employer. In these decision processes the employer had a much more active role, as the party making the radical moves towards termination, and involved rather different issues as the focus of decisions. The resulting departures could occur at either the outset of the dispute sequence, or at its conclusion.

7.3.2.1 Timing (1): Decision at the outset of the Dispute Sequence

News illustrates a situation where the employer made the decision to terminate the relationship at the very outset, deciding in his words, to do it "the fast way" and end the employment relationship". This occurred with little lead-in, before the disagreement between the employer and employee had reached the point of becoming a "dispute", (that is, involving a third-party). As a consequence, it was the employer's actual attempt at termination which then created the subsequent grievance.³²

The manager in News recounts the decision process as follows. Firstly, his assessment of the situation with the employee identifies the perceived urgency of making a move;

"Then - his (the employee's) key people are writing to me, things are terrible, we're not getting any leadership, he's locking himself in the office, having nothing to do with us, leaving early, arriving late - so and my concern is that the leadership of the [business] has just gone and he's got a relatively young team of people that are directionless. They're calling out to me. So that's the point - okay, I've got to make a call here."

"he said, hey mate - you can't, the [business] is your business and credibility and so on, you've got to make a call. You've got fifteen [occupation] people... I could see that they were all pretty concerned that they weren't getting direction. You've got to make the call. So that's what I did - it was 'okay [employee name], it's just not working' "

Secondly, that manager's assessment of the process compares the costs of any legal defence and penalties, against the cost of having the employee remain in the business;

"what is the worst that can happen here? Worse that can happen is that it's going to cost money. Alright let's measure it up"

Okay I've got to protect the team of fifteen, I've got to keep them together, I've got - because they're the ones that really do the hard yards... I can't have them splintering apart and that was starting. They're more important. Okay - and then it's just a measure of what's my gut's telling me that this severance is worth. Yeah - it's worth this sort of money that in the end we settled on... it could have been - the way I played that game was to spread the load over a period of time - the financial cost... So the financial cost was not that big. The - yeah I'm sharing everything with you and I appreciate what we've gone through - but yeah okay what's the cost of this. And [lawyer] said - He said okay - let's look at every situation that occurred in the last twelve months. He showed me a printout. Here's the average - this is the average situation. This is the top end - this is the bottom end - this is where I think it would probably end up.

Overall then, the employer's decision process in this type of scenario can be summarised as

³² Although the employment relationship was "ongoing" at the time that it became officially a "dispute", and proceeded to mediation, the employer's intent (to terminate) was largely already established

focusing on several main areas, which then led to the decision to take action to terminate the relationship at the outset:

- The importance of maintaining the business - potential costs, including loss of the other staff, viability and credibility of business
- Financial cost – “what’s my gut telling me that this severance is worth”
- Probabilities - financial costs: statistics of settlements and range are considered, in terms of a worst-case scenario
- Balancing the books - cost of settlement is weighed up against the potential costs of continuing to have the employee

7.3.2.2 Timing (2): Decision at the end of a lengthy period of opportunities for the employee

In contrast, Waste is as example of an employer's decision at the end of a lengthy period of disagreements. The case involves a longer decision making sequence which provides a useful illustration of the stages and series of unfolding realisations that the company's management went through³³. This decision sequence is illustrated in Figure 7.

³³ This case will be referred to again in subsequent chapters as the emerging principles are used to provide increasingly greater depth of explanation

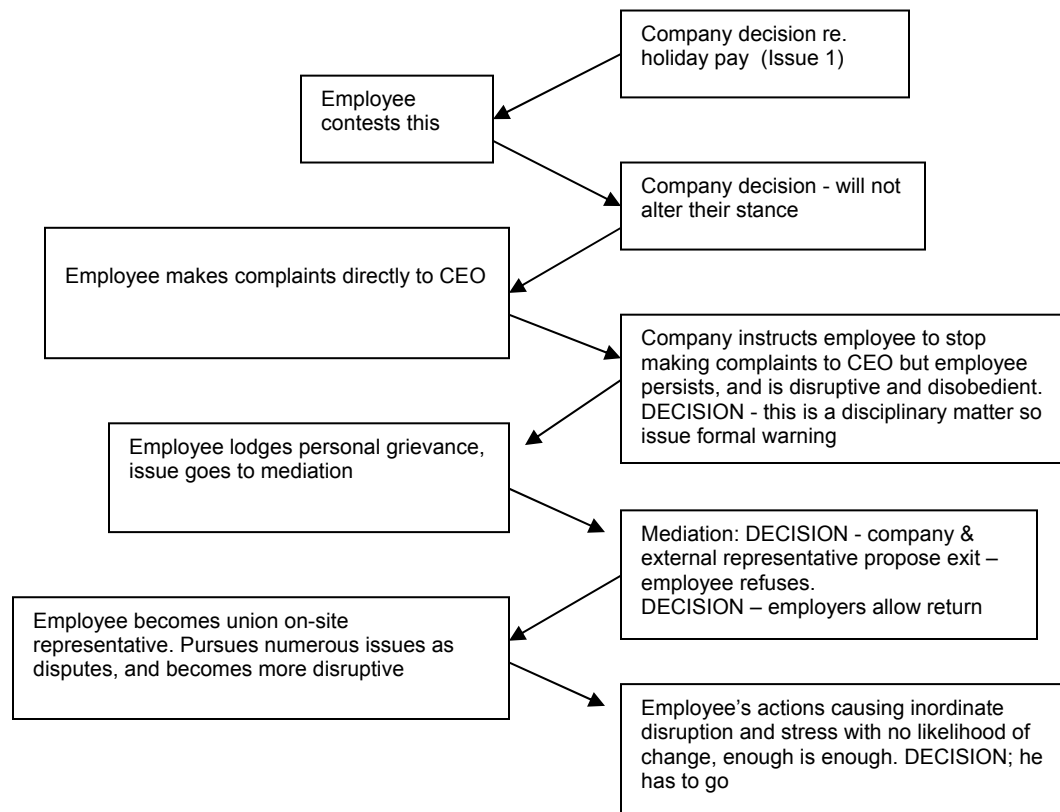


Figure 7: The case of Waste, in terms of employer's decision processes

The problems began with a specific company decision regarding holiday pay, which the employee contested and did not gain the outcome that he desired. Despite requests not to do this, the employee persisted in going directly to the CEO with complaints, so the company made the decision to commence disciplinary action and issue a formal warning concerning this specific employee behaviour. In response, the employee lodged a personal grievance regarding the employer's action in this regard, leading to mediation. At the instigation of their external representative, in mediation, the company advised the employee that the trust and confidence had been lost and therefore they would offer a negotiated exit. The employee disputed this and sought to return to work. Fearing the potential costs if the dispute proceeded to the Employment Court, the employers overruled the advocate's advice and decided to allow the employee to return.

Once back at the workplace, the employee then took on the role of on-site union representative, constantly raising a multitude of complaints, "causing an inordinate amount of disruption" which was "endless, absolutely endless". The complaints were particularly time-consuming and disruptive for the employer as they often involved issues where the employer was legally required

to take action and respond. After repeated attempts at working through the issues, the employers reached the limit of their patience and as they explained, "it got to the point in the end where we just said, enough's enough - he has to go". From their perspective they could "no longer afford this going on because [name] was being disruptive in the rest of the workforce and causing a lot of issues throughout an organisation; "it was obvious that the, the employment relationship had absolutely no future." The employers decided he had to go at whatever the cost, and decided to terminate the relationship.

Overall, Waste demonstrated particularly clearly the decision process that was shared by other managers. The process involved a series of factors, and what the manager termed "the equation" involving those factors. This consisted of weighing up the costs of the problems associated with the employee, and comparing these against the costs of taking direct action. This assessment was re-applied throughout the stages of a dispute, and as the aggravation from the employee's behaviour continued to increase, likewise the employer's readiness for taking direct action and incurring financial costs associated with this, also increased. The balance between these two sets of costs gradually shifted until the costs of any payout were likely to be considerably less than the potential ongoing costs of disruption and disobedience. The ever-increasing costs of retaining the employee made the employer much more open to taking risks with litigation, and the equation therefore became strongly weighted towards terminating the relationship, as the employee "had to go";

"again it comes down to that equation I was talking about before. It's management time, getting lawyers involved - and it was - he was causing a significant amount of stress with other employees" (Manager)

In these situations, the primary consideration for the employer is the effect on business and whether the employee's continued presence would negatively affect the way in which they wish to run their business. Accompanying this was the similar theme of whether or not the relationship had any future, as with the employee-initiated terminations.

Gamma constituted a similar type of case. Although, at a legal level, this involved a variety of discrete topics to do with changed duties for the employee, underlying these was an openly acknowledged company decision that they did not wish to retain this employee and they too were prepared to pay for the employee's departure. Not surprisingly, all three of these employer-initiated cases involved high-intensity interpersonal conflict (IPC Hi), concerning the relationship between the employer and employee.

One variable that consistently influences the companies' decisions concerns the extent of influence that the employee has; if the employee has a high degree of influence, and this is

counter to what the company wants, then the company is likely to seek to remove employee. In News the employee had a senior, crucial role affecting a significant number of staff, and in Waste and Gamma this was combined with the fact that the employee had potential adverse influence through their union involvement;

"But our strategy - that was part of our strategy was - is, we are - yeah, we don't want union presence here. So to, for them to lose a top delegate, that was okay with us...but she was at such a level that she still - she had influence and we were quite prepared to pay the price to see her go" (HR Manager, Gamma) ³⁴

In sum then, a key point is that these are company-initiated terminations. They are premeditated, as part of a rather utilitarian approach where the company seeks to obtain the outcome that it wants. The primary decision is the choice to remove the employee, and the legal "dispute" associated with this is only a secondary matter. To some extent this parallels the employees' experience where there is frequently a difference between the "real issue" behind the dispute, which is typically to do with the broader employment relationship, compared to the strictly legal issue that is being contested. The official, legal issue was thus, often just a symptom of the deeper problem.

7.3.2.3 The mechanism for exit – influence of the law

A crucial feature of the employer-initiated terminations is that, contrary to the traditional perceptions of employment protection law, the question of the employer's legal entitlement to dismiss the person is not a major determining factor. Rather, the employers usually make the decision to terminate the relationship in the knowledge that they would be breaching the requirements of the law. The legal requirements simply impose a cost, so that the process of removing the employee is considered to be just an expense, along the lines of the "equation", as expressed by the manager in Waste. In that particular case, the employers simply chose one comparatively minor incident where the employee had erred, and used that as a pretext for dismissal, even though this was an overly harsh, and probably unjustified, punitive action. However the consequences of such a breach of the law were not a significant deterrent for employers; at worst, it could cost the company some money by way of a settlement if the employee pursued the issue as a personal grievance. As the manager explained;

³⁴ While the employers in Gamma were openly anti-union, in Waste employers generally had a positive relationship with the union, however this particular employee's union-related activities became problematic as the employee was considered to be abusing the power associated with his role as on-site union delegate.

"had we actually done the normal disciplinary on whatever the issue was we would have probably given a written or a verbal warning but I basically said to [union organiser], I'm just gonna fire him for this. And I know it oversteps the mark and I fully expect you to take a personal grievance and have a go at me - that's when we got to the employment court bit. So you want to know how serious we are, then fine let's just get on with it. But we are not going backwards on this one" (Manager, Waste)

This represents a significantly different approach from the way the law is typically considered to operate. The representative involved in Gamma, expressed it rather succinctly;

"the crunch issue...is - what do you want to do with this person. Yeah, and start at that and come back - right or wrong, forget the law, is this a good - is this person a good employee or a bad employee. Is this someone that you value in your community....If this person's a pain in the arse and they always have been then you move from that angle as well... So that becomes the question, which is quite a different question in a way - well quite a different way of looking at it than the law envisages"

"there are the other situations where you walk into them knowing that what we're looking at is an unjustified dismissal. You walk in and.... I guess what's behind it is - is minimising loss, and minimising the damage."

Other representatives, dealing with a range of employers, expressed similar ways of operating which suggests that this approach is relatively widespread;

The question I often ask of my employer clients is, how much is it worth to you not to have this person there. When they're complaining about me advising them - look you're gonna have to pay a few grand to settle this thing. The way for them to look it is how much is it worth to you. You know if I said to you I'd give you - if I gave you - would it be worth ten grand if I - you know, to solve this problem not to have this person here tomorrow, then you know they'll say, oh you know it'd be great if I could pay - you know. And that's the way to look at it. (Lawyer)

In these types of situations, the influence of the law in protecting a person's employment is rather limited, simply imposing this type of "business expense", with the employer's payment commonly known as an "exit price";

You walk away with a lump of money and you be quiet, and that's exactly how it's been done. So it's been lodged at mediation - full and final but we didn't actually end up at Mediation Service. And that's pure business expense. We just look at it as an employee expense - pay them off, away they go. (HR Manager, Gamma)

It is important to note however that this employer-initiated process, where the employer has been openly and directly seeking to remove the employee, is quite distinct from situations where the employee initiates the move to terminate the employment relationship, and a settlement is reached at mediation. In those latter situations, although it may be advantageous for the employer to no longer have the employee on their staff, nonetheless, the employer is not the

initiator of the move to terminate. In those situations, the employer's choice to agree to a settlement involving the employee's departure, is often largely a response to the costs of the dispute and the effect that the dispute itself has had on the relationship.

7.4 Employer Decision Making Variables

At this point it is useful to demonstrate some of the complexity associated with the employer perspective. A preview of Table 11 (which will be discussed in more detail later), provides some illustrative examples from the cases. Again it is interesting to firstly note the multiple individuals involved in the same organisation (column two), and secondly the diversity of the ways in which those individuals functioned in their decision making (columns three and four).

Table 11 Managers' Decision making – Issues and criteria

Case	Employer representative	Individual's orientation	Decision-making criteria
ALARMS	Owner / manager (approx 20 staff)	Reactive Win / lose	ATTRIB: "he tried to rip me", MSG: Conveying a message: "a lesson out there to the other guys"; WIN: Win / lose: "no way I was going to lose" Deception: "I had him – trapped – he cried, then I knew I'd got him"
COPIER (a)	Area manager (New to organisation)	Business costs	ATTRIB: employee not accepting performance issues COST: Replacement cost v costs of non-performance, customers and lost productivity. Dispute cost: stress (personal) and financial costs. (New to organisation – how well acquainted with company values?)
(b)	HR Mgr (Corporate) 285 staff (long-term employee)	Relational / dialogue	ATTRIB: puzzled but accepts manager's interpretation that employee not accepting performance issues RELATE: Seeks genuine "frank conversations", to find a "win-win" – rather than adversarial, legal point-scoring MSG / SETTLE; Settlements Principle: defend whatever the cost, "we're not going to pay any money for it go away" VAL: Company values / culture: respect for everybody "it was about doing the right thing for [employee name]".
GAMMA	HR Manager 550 staff	Dominance & rights	ATTRIB: genuine or employee is troublemaking and involved in union PRINC: RIGHTS Principles and rights: their prerogative to change duties. E/E INFL: "she was at such a level that she still – she had influence and we were quite prepared to pay the price to see her go" EXIT-P / WANT: Pragmatism: "just ...an employee expense, pay them off, away they go" (paying price to remove e/e influence) UNION: <i>Aggressively anti-union</i> , "Our strategy is black and white. We don't want unions here" - keep the union out WIN: take no prisoners; "paternalistic" MSG / SETTLE: fairness but "don't try it on with us"; "won't bow whatever pressure is on us" if company is right, RGT/WRONG COST: time, advocate fees, team morale. PUB: Avoid possible adverse publicity ADVOC: E/r advocate extensively involved; (similar values).
REDBANK	HR manager (Regional) 6000 staff (NZ)	Risk & compliance	ATTRIB: employee is genuine but misguided, not accepting performance issues RISK: How well can company's action be defended. P/Mgt system is "robust" so will defend and not compromise RGT/WRONG SETTLE / PRINC: misconduct usually dismissed for "sound" reason, so "we'll fight that" to prevent reinstatement; negotiated settlement just rewards misconduct. Shouldn't matter how much it costs to defend COST: Pragmatism - cost of defending – time, legal costs, senior management time - "can't be too ethical" PUB: Need to consider adverse publicity – how defensible HR ROLE: "Shadowing" and advising line-manager (HR as manager-support)
RETAIL (a)	Store manager. (70 staff)	Avoid	ATTRIB: Discerning employee's motivation: a genuine complaint or "other motive" <i>Refers it on:</i> "I really put it in the hands of HR, pretty much immediately and relied on them for instructions"

Case	Employer representative	Individual's orientation	Decision-making criteria
(b)	HR Advisor (Corporate) (3500 staff)	Risk & compliance	WANT: "first of all...whether coy want the person back in the business...what's best for the business". RISK: Degree of risk, especially if refusing to settle SETTLE: Generally don't like to settle for unjustified dismissals – HR has already done pretty thoroughly
WASTE	General Manager 150 staff	Relational / dialogue	ATTRIB: e/e "interested in only one thing and that was sticking it to the employer"; "doomed from the very start" RELATE: Prefers open discussion; "much much easier and much more cost effective to actually get things on the table" COST: management time, ongoing disruption, climate & relationship with other staff, versus financial costs, litigation costs EXIT-P (eventually); "he has to go" "he was causing an inordinate amount of disruption...relationship had absolutely no future" E/E INFL: disruption caused, also as part of abuse of role (& power) as union on-site representative VAL: "doing the right thing" – but this results from perception of employee attitude and intent ADVOC: Partial influence of advocate – but employers prepared to overrule advocate
CORG – B (a)	Area Manager (73 staff)	Relational / dialogue	ATTRIB: employee no longer belongs in the job / organisation RELATE: Prefers low-level resolution, real dialogue: When upper management involved "it is just harder to be real with people and that's what often people are wanting.. it just sort of, ups the ante, becomes more legalistic" HR ROLE: HR "a tendency to be quite legalistic" RGT/WRONG: if they are partly at fault, "don't have to...fight to the hilt", but if "has been managed well then I do want this fought" MSG / SETTLE: "sometimes staff do try it on" "Realisation" that e/e "needs to go", "threatening", personal; "she called me ignorant... that pissed me off", team dynamic "it's time you had to go for the team" Bypassing the direct manager: "there's a lack of control...a lack of respect in terms of my authority and my skills"
CORG – B (b)	HR Advisor (Regional) (570 staff)	Relational / dialogue	RELATE: "tend to be much more gentle... go about it in a way that isn't going to create such a furore" HR ROLE: local HR - work more closely with local staff, knowing people and the issues - more proactive, plus identifying sources of problems and remedying, e.g. alleged bullying - also close working relationships with the local unions - act early and "nip it in the bud"
CORG – B (c)	ER Advisor (Corporate) (2000 staff)	Dominance & rights	RISK focus: "the potential risks if we went to the Authority or the Court"; if the employee had not been a major problem and "we think maybe they are not going to take it to the Authority, then we would look at probably not settling". MSG / SETTLE: "we don't want to have a culture of where someone takes us to mediation and we'll just pay out" WIN: "agree to mediation because...it's an opportunity for us to...show them that they don't have a case. Whereas if someone just had a random lawyer or something then - or even if it was by themselves... just probably write a nasty letter back [no mediation]" "confidentiality to tell people that they don't have any kind of a case and they should just go away". (EXIT-P)
MOVERS	Branch Manager (15 staff)	Risk & compliance	ATTRIB: partly e/e being obstructive (going direct to union) plus employee's honest but misguided belief not treated fairly RISK: determine strategy and actions based on risk COST: time cost: "get back to doing business", union "wasting my time"; financial costs, advocate fees; staff relations - concede or compromise to avoid having other union members work against the company ADVOC: Advocate used as per company policy - significant influence; Mgr unlikely to question advocate's plan. Union describes company as the "most litigious employer...that this union has to deal with"

Case	Employer representative	Individual's orientation	Decision-making criteria
ROAD (a)	Area manager (400 staff)	Relational / dialogue	ATTRIB: Discerning the motivation; genuine, or grandstanding, or (most likely) union-led mischief making? RGT/WRONG: "If we are wrong we will fix it". Is it "fair", "employees...want to see natural justice" RELATE: get around the table and sort out the issues" rather than litigate MSG / SETTLE: not seen as bending "with the wind under a threat"; Condition of settlement – person must leave (trust gone) RISK: Assessing risk – Authority as a "lottery"; principle versus pragmatism in settlements COST: ongoing risk, and drain on management resources VAL: people are our number one asset, trust, relationships, effects on relationships; Fairness, give-and-take; Respect
(b)	ER Manager (Corporate) (3000 staff)	Relational / dialogue	ATTRIB: genuine versus frivolous "trying to screw us for money"; "if we're wrong, we'll fix it. If we hadn't, we won't pay out" MSG / SETTLE:: will not pay if "not in the wrong" - don't want to be seen as a "soft touch" VAL: "honest, up-front, straight talking type of business"; "support each other and work hard; support each other, honest"
TERMINUS	HR Manager	Risk & compliance	ATTRIB: Assessing employee's motivation – union "point scoring", or genuine; long-term fight? PRINC, RIGHTS: principles: employer's rights e.g. to maintain customer standards – traded off against COST of proving they are "right" PREC: precedents: wary of danger of setting precedents, esp. with third-party (UNION) PUB: need to avoid possible adverse publicity HR role - counselling and coaching managers – dispute resolution by involving a third-party expert for technical 'answers'
CORG- A	Area Manager (151 staff)	Relational / dialogue	RELATE: real honest discussion important, this can't happen once lawyers get involved, "like walking on eggshells" - wanting e/e acknowledgement that they have erred RISK :rules, standards, controls to prevent reoccurring
NEWS	Owner/manager (100 staff)	Business costs	ATTRIB: employee not suitable for role – Decision (to remove employee the "fast way") COST: Cost-benefit analysis - potential settlement cost (as advised by lawyer) – "what's my gut telling me that this severance is worth". Ongoing Business costs: continuing to employ person - direction needed for team, need to retain other staff, costs to the business and employer's credibility. "received a delegation privately from two or three senior people who basically indicated ...either [employee] goes or we go" EXIT-P: Employee set an exit-price, "that's the price - we either pay that price or he stays" E/E INFL: Senior role affecting many other staff - Progressive realisation of employee's unsuitability
BLUBANK (a)	Regional Manager	Relational / dialogue	ATTRIB: are the actions genuinely employee's own genuine personal issues, or part of union "organising"? RELATE: Importance of dialogue and relationship (ongoing) - Prepared to back down & avoid a public fight - "my personal style is much more softly, softly" – encourage people to "create a dialogue" Sought to de-politicise and focus on the person; "the best thing was to try and make it an issue about [employee name]" RELATE: Mutual respect with local union organisers – little respect for national union representatives – "end up fighting [the organisation]", not helping the individual HR ROLE: Corporate HR: little use; really just "compliance risk managers", "process over purpose"

Case	Employer representative	Individual's orientation	Decision-making criteria
(b)	ER Manager (Corporate) (9000 staff)	Risk & compliance	RISK: Organisation risk and consistency - Importance of procedures PRINC / PREC: Issues of principle and precedent setting: "at stake...how we manage our process of appointing" MSG: Conveying a message; that it's not "put in a claim and...get lots of money" COST: "utilitarian analysis...cost benefit analyses" time, potential costs (legal and awards) VAL: "organisational values", "the right thing to do", not just what we are legally required to do UNION: avoid acknowledging in any "way, shape or form, that we believe that [union]'s view was right"
FLEET (a)	Local Manager 160 staff (new to role; 12 months)	Reactive Win / lose	ATTRIB: union seeking a fight over an important right / precedent – but they are wrong WIN: "he was adamant he was gonna win"; "they were playing them hard...so I will play hard ball back...I have nothing to lose" PRINC, RIGHTS: Focus on rights – debating/defining the rules that will then give the manager power (STRATEG) - strategic importance of staff-transfer rules – compared to annual leave or pay where will compromise, "no big deal" COSTS: time, effects on relationship (conflict) as the "real risk" as "I'm continually fighting"; (desire for control takes priority over relationship?)
(b)	HR advisor (Corporate) 2100 staff	Risk & compliance	RISK / COST: risk of losing, incl. "loss of face" PUB: risk of adverse publicity Need to be "good employers", both in terms of substance and process – adviser now proactively supports managers in ER areas - need to be "fair and reasonable" – get it legally correct so as to minimise COSTS, and a good process so that will get employee buy-in to any moves

KEY:

Code	Meaning
ATTRIB	attribution made regarding employee's intent; whether it is genuine, or done for other (non-genuine) motives
E/E INFL	extent of employee influence (typically counter to employer's wishes)
EXIT-P	Exit is largely manager-initiated and compensatory payment is an "exit price" or severance cost for getting rid of the employee
MSG	conveying a message to the other employees, regarding disputes
PRINC / PREC	concern for the issue under dispute as a matter of principle, upholding the organisation's rights and caution with setting precedents
PUB	concern for avoiding adverse publicity
RGT/ WRONG	Is the company's action right or wrong – legally, and in terms of fairness
RELATE:	a focus on relationships, expressed in a preference for frank, open discussions as a primary dispute-handling strategy
RIGHTS	Focus on maintaining and preserving perceived rights, including the influence this will then permit

RISK /COST	focus on the legal exposure and legal risk for the organisation
SETTLE	factors concerning decisions about making settlements, especially principle versus pragmatism
CRED:	avoid giving credence, acknowledging in any "way, shape or form, that we believe that [union]'s view was right"
VAL	company's higher values, such as those expressed in official values or recognised shared values
WANT	primary decision making criterion is simply whether or not the employer(s) want the person in the organisation
WIN	a primary focus on winning, usually at the expenses of the other party (win / lose)
ADVOC	relationship with, and influence of, employer-advocate
HR ROLE	the role of HR in disputes, including perceived manner of functioning
STRATEG	strategic importance of outcomes for other issues and areas
UNION	Purposeful intent by employer to prevent union gaining influence in the organisation

7.4.1 Core construct - Power

The fourth column of the table, titled “Decision-making criteria” shows codes drawn from the data which represent the differing types of variables that employers take into account in their decision making processes. These will be explored in detail with the greater variety that unfolds later, in regard to the decision making processes concerning the second main decision area of decisions to actively contest an issue. At this point however, it is worth noting the main variable related to the employer-initiated termination decisions;

Code	Higher level variable - Power
E/E INFL referring to the extent to which the employee has influence, (counter to employer's wishes, within the organisation	<i>challenge to the employer's control</i>
EXIT P referring to the fact that the exit is largely employer-initiated and so the settlement (compensatory payment) is an “exit price” or severance cost for getting rid of the employee	<i>allows the employer to remove the employee and maintain control</i>
WANT = primary decision making criteria is simply whether or not the employer(s) want the person in the organisation; "what do you want to do with this person... forget the law"	<i>Employers' control of their staff and activities occurring in the organisation</i>

The same higher-level variable or construct of Power, which was present in the employee section, also emerged as a higher-level variable in the employer section. Again, brief observations on the construct will be offered, in relation to the various sections of employer decision processes³⁵. These will serve as a prelude to the discussion of the higher-level constructs, which will follow later in chapter 8. The influence of Power is particularly evident with regard to the specific phenomena of employer-initiated terminations. The main variables involved in the employer decision-making centre on a desire to maintain control, that is, to have power. The power-related aspects of the variables are shown alongside the interpretation of the code, above. Employees, who for example, exert influence contrary to what management wants, constitute a challenge to the employers' control, and so employers will respond by seeking to restore and preserve their control. Similarly, paying an “exit price”, allows the employer to remove the employee and maintain control, while an employer's desire or “want” can dominate among the matters considered when deciding whether to terminate an employee.

While the conventional wisdom is that employment protection measures such as personal grievance

³⁵ Other observations will also be drawn concerning the other types of employer decisions

laws offer protection to employees, these findings suggest that such protection is rather limited. In the case of employer-initiated terminations, the employees' main hope for influence was through external mediation (and the Authority in one case), representing the external industrial relations and justice systems, which were perceived as offering protection for employees. In practice however, the "protections" of the justice system simply require the employer to pay a price to maintain their control. If an employer has the financial resources, and strongly desires to remove an employee, the legal requirements do not present an insurmountable barrier; rather, the law simply imposes the "exit price" that an employer must pay³⁶.

In effect, the justice system can be perceived as allowing employers to get their own way, achieving their goals by removing an employee. Ultimately, in the majority of the cases observed, power lies with the employer; if the employers wish to remove an employee then they can do this, and there is little that the employee can do to prevent this. It is important to note however, that the most obvious exceptions to this are again, the cases of Blubank and Fleet, which were noted earlier as cases where the employees appeared to have greater power. The employer-initiated terminations did not involve employees who were members of larger, more powerful unions, and the comments of employees in the cases of Blubank and Fleet, for example, suggested that they at least believed that their situation was somewhat less vulnerable.

7.5 Summary

One of the two key decisions confronting employers in dealing with a dispute, concerns the question of whether or not to continue the employment relationship with the employee. The actual terminations of the relationship can be either employee-initiated, or employer-initiated, and the associated decision processes are similar but not identical. Employer-initiated decisions can occur at varying times, from the outset of the dispute through to the end of the dispute. For the employers in these situations, the decision-making process involves an equation, similar to the cost-benefit equation used by the employees, which generally involves comparing the costs of having the employee within the business, with the costs of removing the employee.

The employer-initiated terminations are typically not based on a need to observe the requirements of the law, but rather in terms of the costs that would be incurred from a breach of the law. This is counter to what may be typically expected, and is perhaps quite a different way of looking at it from what "the law envisages". This raises questions concerning the power of employees, particularly in terms of the protections offered by the law in this regard.

³⁶ None of the employees in these cases sought reinstatement

The specific variables involved in employer decision-making centre on issues of the effect and influence of the employee on the functioning of the business (challenging the employer's own control), the perceived feasibility and desirability of continuing the employment relationship, and the cost of removing the employee compared to the employer's desire to do this (remove the employee), along with the 'effect' of the employee's ongoing presence. These variables are part of a wider set which are also involved in the second main type of decision made by employers, concerning the decision to contest an issue, which is explored in greater detail in the following section.

7.6 Decision Two: The Employer's Decision to Actively Contest an Issue

The other main decision confronting employers concerns the question of whether, and to what extent, to contest an issue that has been raised by an employee, and so defend their own (employer's) interests. As mentioned earlier, these two main decisions are not necessarily sequential, but tend to operate in parallel. This second decision however, involves greater variety and provides a more clear illustration of the range of variables involved in the employer's decision-making, as illustrated in Table 11. Those variables will be explored in detail in this section, with reference back to that table.

The variables will be discussed sequentially, in relation to the two focus-points of this type of decision. The first decision-focus concerns the question of whether the *matter* is one that the employer wishes to defend, and the second decision-focus concerns aspects of decision-making regarding *settlement* options. The function of these variables, in terms of the decision making process that will be developed, is illustrated visually in Figure 8. Together these will form the proposed model of employer decision making, concerning the question of whether or not to contest an issue.

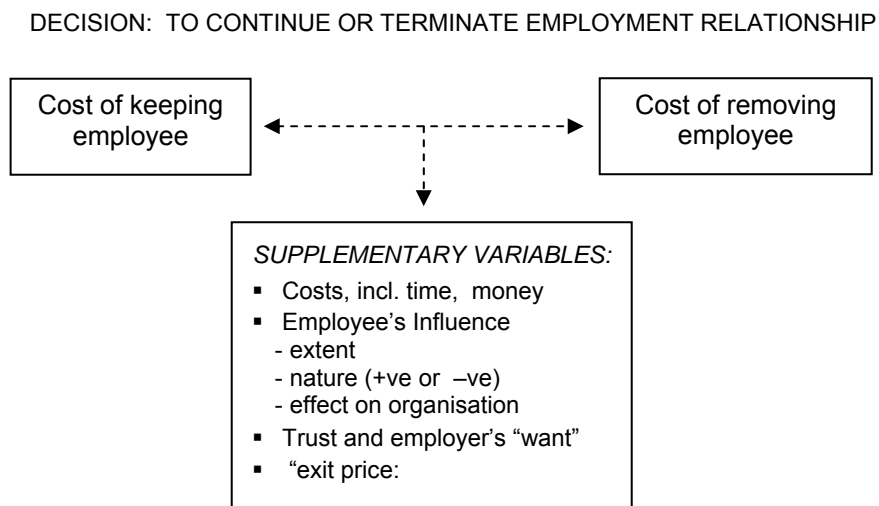
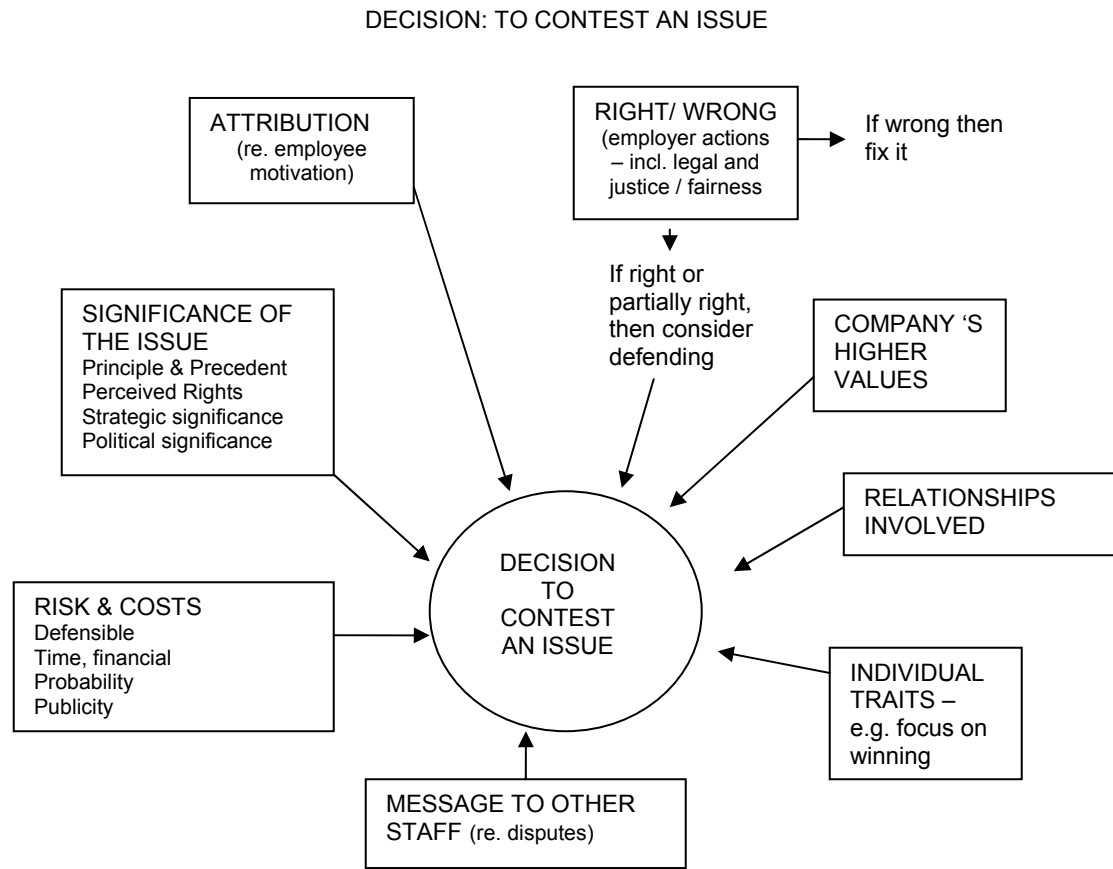


Figure 8: Proposed model of Employer Decision Making Processes

7.6.1 Decision-focus One: determining whether this is an issue that the company wants to defend

The first area of focus in the decision-making process, for the employer, concerns the question of whether this is an issue that the company *wants* to defend. The nature of this question needs to be noted carefully, as it is quite distinct from other aspects which will follow later, concerning the *manner* in which the company defends its interests.

Variable (1) Assessing Whether the Company is Right or Wrong

Code: RGT/ WRONG: Is the company's action right or wrong - legally, and in terms of fairness

Within this area, the first variable is usually addressed once the employer first becomes aware of the employment relationship problem. In that sequence, the employer's initial consideration involves ascertaining whether the company has been right or wrong, in the matter that the employee is contesting.

This includes firstly, the broad justice or fairness of the action;

"I start looking at whether it's fair or not for a start.

"Well, employees.....generally want to see natural justice. Now if they see someone's done something incredibly silly like coming to work drunk and then jumping in the company vehicle and tearing round the yard and tip it on it's side, they expect to see that person lose their job for that because that's not an acceptable behaviour." (Area Manager, Road)

If it emerges that the company was in fact, wrong in its actions, then the consequence is usually that the company will remedy that and will seek to resolve the problem at that point. However, if the employers believe that they are right, then they will be more inclined to seek to defend their position;

"It's not fair so we'll just fix that... being fair about it then people can see it as being fair" (Area Manager, Road)

"if we're going wrong, we'll fix it. If we haven't, we won't pay out" (ER Manager)

Secondly, it also involves a consideration whether the action complies with the law. While the employer-initiated terminations paid lesser attention to the law, in these preliminary stages a key part of the decision making centred on the 'rightness' or 'wrongness' of the company's actions in terms of their legal obligations.

These two areas of consideration were common across virtually all cases, essentially involving an

assessment of the extent to which the employer perceives their action(s) as either right or wrong.

Proposition (1): An employer's decision regarding pursuing dispute action will be dependent on the extent to which the employer perceives that the company's actions were just or fair, and the extent to which they comply with the law. Where an employer perceives that the company's actions were fair and complied with the law, they will be more inclined to pursue dispute action.

Variable (2) Forming an attribution regarding the employee's intent

Code: ATTRIB = attribution made regarding employee's intent; whether it is genuine, or done for other (non-genuine) motives

At the same time, the employers typically form some kind of attribution regarding the employee's intent in raising the issue. This aspect was very important to the employers, and includes making an assessment of whether the employee was genuine in their complaint, or acting from some other motive. The attribution is critical as it shapes the employers' response to the dispute. To some extent, the two initial issues, of right/wrong and attribution, are interwoven. For example, even if the company realises that it was in the wrong, the attribution remains important as it makes the difference between a genuine complaint, and an attempt at 'grandstanding'. If the employee is perceived as wanting to "stick it to the employer", then this affects the employer's response;

"some people will decide not to pursue it. Say okay, I've had my say, it's been fixed, I'm happy with that, let's get on with life. Others want to grandstand, show everybody. Some people have an axe to grind and they'll look for opportunities to cause problems. Others are out for a quick buck. And that's the range of people you're dealing with"
(Area Manager, Road)

Underlying this is the question of whether the employee themselves is being "fair", and whether the employee can be trusted. In Terminus this also included an assessment of the motivation of both the employee and the union;

"I didn't know if it was point scoring by the union because they hadn't had a to-do with us for a long, long time, or whether it was that [employee] was going to be like [other employee] and take a totally unreasonable approach" (HR Manager, Terminus)

In the case of Waste, as discussed earlier, the employers formed the impression that;

"And the relationship was doomed from the very start"
"he was never open directly trying to fix that (the relationship)" (Manager, Waste)

Consequently, the employers were not favourably disposed to the ongoing dispute actions that the

employee persisted with. This case is particularly interesting as it involves a marked contrast, with another employee who also contested the employer's actions, using a lawyer in formal dispute actions. In that instance however, the employers had a very different interpretation of that other employee's motives, partly based on the years of faithful service that this are the employee had given the organisation;

"The other chap who we put off...he was an innocent bystander in us effectively doing something that was for business reasons and we had made a mistake. And I did not mind and thought it was the right thing for us to do which as a reasonably employer, to look after this guy who had given us three, five years, loyal and faithful service on a part time basis and it was obvious from the very beginning that he really believed and felt very deeply the fact of what we had done."

Although the company was not able to reinstate that employee, the employers made a settlement well in excess of what the employee's lawyer sought;

"We went down there and we sat there for five minutes while – let them sort of beat the crap out of us. And then basically we opened the cheque book. And it wasn't a case of 'what do you want?' – we went down with a specific offer on what we thought was fair. It was it turned out like twice as much as they thought they were gonna be asking for. But we thought it was a fair deal... but then we said, we don't think it's appropriate that a man like this should then be paying legal fees to be represented in this sort of thing so we'll pay the legal bill. And that was what I think blew them away. Now to us as an organisation, it's a few thousand dollars, but in the scheme of things it's relatively minor, quite frankly. It really was relatively quite minor and it was to me, it's doing the right thing and I think that's the relationships that we've tried to develop, quite frankly."
(Manager, Waste)

Proposition (2): An employer's decision regarding pursuing dispute action will be dependent on the extent to which the employer perceives that the employee's actions are motivated by either a genuine complaint, or ulterior self-interested motives. Where an employer perceives that the employee is motivated by self-interested, non-genuine motives, the employer will be more inclined to contest the issue through dispute action.

Variable (3) Significance of the issue

The construct "significance of the issue" includes a number of related subcategories, linked to this theme.

Sub-dimension (a): Principle and Precedent

Code: PRINC / PREC concern for the issue under dispute as a matter of principle, upholding the organisation's rights and caution with setting precedents

The first subcategory concerns the matters of principle and precedent. Where an issue is perceived as being a matter of “principle” and hence some importance to the organisation, then the employers are typically very reluctant to compromise;

"it's the principle that people who can't be trusted should not work in a bank" (HR Advisor, Redbank)

"a point of principle from the [company's] perspective in that there was - at stake was the question of how we manage our process of appointing people to roles". (ER Manager, Blubank)

Similarly, the setting of precedents is particularly important for employers, given the ongoing consequences from such a decision. Where a matter is perceived as setting an important precedent, this makes employers reluctant to compromise in such areas, due to the potential follow-on effects for other employees;

"the moment you've actually made that decision and set that precedent then it'll come back to haunt you - particularly if a third party like a union is actually involved. So in most particular cases I make sure I've got all my facts right. I will do a whole lot of homework before I actually put the stake in the ground because to some degree I still use the same process but once the stake's in the ground on a matter of principle then that can become die-in-the-ditch - particularly if it's precedent" (HR Manager, Terminus)

Sub-dimension (b): Perceived Rights

Code: RIGHTS Focus on maintaining and preserving perceived rights, including the influence this will then permit

The degree to which an issue involves a threat to the employer's perceived rights, also influences employers' decisions to defend their interests. Typically, where there is a greater perceived threat, this causes employers to be more strongly motivated to defend their position;

"Now in X's case however I would have gone right to the Employment Court on that issue because I believe that we have the right as an employer should we identify a legitimate complaint from a customer to uphold our customer standards"
"my point of view on this was that we have the god given right as an employer to uphold customer service standards so we've been very clear on that - that's a non-negotiable" (HR Manager, Terminus)

The matter of rights was pervasive, occurring throughout the individual managers' responses, although some also discussed this in more explicit detail.

Sub-dimension (c): Strategic Significance of the Issue

Code: STRATEG strategic importance of outcomes for other issues and areas

Similarly, the extent to which an issue is perceived as having strategic significance, will also affect the decision making. Where the outcome of a particular issue is perceived as having a direct influence in other realms, this is likely to make an employer more inclined to contest an issue. For example, in Fleet, the manager strongly contested the issue of being able to order staff transfers, as the outcome of this would then either allow, or preclude, achieving other goals which required staff transfers. In contrast however, with other issues which did not have such strategic significance, the disagreements did not go “far at all really. Cause in that particular field I’m pretty loose. I don’t mind giving a bit here and there. It’s no big deal to me.”

In Redbank, as another example, the employer’s attitude was that if they dismissed an employee for misconduct, the employee would be likely to seek reinstatement, which the employer did not want and so they would “fight that”.

Sub-dimension (d): Political significance of the issue - Not wanting to give credence to the other party

Code: CRED avoid giving credence, acknowledging in any “way, shape or form, that we believe that [union]’s view was right”

Code: PUB concern for avoiding adverse publicity

Another variant of this concerns the manner in which the political significance of the issue influences the employer’s decision. The extent to which a public outcome could potentially be construed as giving credence to the other party, is likely to cause the employer to resist or oppose the outcome. For example, in Blubank, the employers were concerned that by conceding to the employee’s request and accepting the union’s arguments for this, would give greater credibility to the union;

“[employee name] was a case in point where if we were - even if the outcome of the particular case was confidential, that it would create an acknowledgement on our part in some way, shape or form, that we believe that [union’s] view was right and that was not acceptable.” (ER Manager, Blubank)

In essence, for this employer, admitting that they were wrong, or at least the other party was more correct, would mean giving away power to the union, and this was something that they did not want.

Overall, the various subcategories of the “significance of the issue”, reflect a common theme concerning the importance of the issues for managers, in terms of the extent to which the issues affect the employers’ ability to run the business, along with their ability to maintain control and

protect their rights, as part of their managerial prerogative.

Proposition (3): An employer's decision regarding pursuing dispute action will be dependent on the extent to which the employer perceives that the issues involved have significance, in terms of either principle and precedents, or perceived employer rights, or the strategic significance of the outcome, or the political significance of the issue. Where an employer perceives that the issue is significant in a manner which could compromise their own interests, they will be more inclined to pursue dispute action.

Variable (4) Company values

VAL = company's higher values, such as those expressed in official values or recognised shared values

A fourth variable influencing the employer's decision consists of higher values, both from the individual and the organisation. This matter is distinct and separate from any matter of legal liability, with higher values used as a separate criterion in decision-making. This was often described as doing the "right thing". In Blubank for example, value-driven decisions included offering compensation to an employee who left due to a personality clash in a rural area where there were no redeployment options, or continuing to pay salary to someone who was terminally ill, for up to twelve months until they pass away;

Now that's well beyond what the statutory - we are obliged to do or legally obliged to do but it is the right thing – seen as the right thing to do in the circumstances.

one of the things that has interested me in coming from private practice into a in-house role is – and particularly I guess so for a large corporate like, and particularly so for a bank, is the role that organisational values play in that decision making process. In terms of resolving conflicts. And the number of times that an employer has said – or a senior manager has said, yes we should pay money even though we're not legally obliged to do so or the legal risk may be low because it is the right thing to do and is consummate with our values as an organisation. ." (ER Manager, Blubank)

In Waste, the example cited earlier involved the employer voluntarily paying a higher level of settlement than was requested, and even reimbursing the former employee's legal bill, of the employer's own initiative. These actions were framed as being "the reasonable thing to do"; and "doing the right thing.. why would we take advantage of that and what kind of people or what kind of organisation does that make us"

Thus, the extent to which the organisation, or the individuals representing organisation, have higher values which have a bearing on the disputed issue, will influence the employer decision.

Proposition (4): An employer's decision regarding pursuing dispute action will be dependent on the extent to which the employer perceives that the company's actions are congruent with the organisation's higher values. Where an employer perceives that the dispute action is congruent with those higher values, they will be more inclined to pursue dispute action. Conversely, where the employer perceives that settling and accommodating the employee's interests is congruent with those high values, the employer will be less inclined to pursue dispute action.

Variable (5) Relationships

RELATE: a focus on maintaining and building relationships as part of a preferred management strategy

The extent to which the employer wishes to maintain or preserve relationships with employees constitutes another variable affecting the employer decision concerning whether or not to contest an issue. Some managers for example, placed high importance on maintaining good interpersonal relationships, as a key element in the functioning of the organisation. This involved emphasising and promoting dialogue and communication, accompanied by concern for matters such as morale among staff. Where an employer placed importance on relationships, this typically meant that they would be reluctant to engage in more formal activities to contest an issue, not wanting to make the matter into a formal dispute, and seeking to avoid forms of litigation, as these were considered to be destructive of relationships. Instead, the employers would seek to utilise existing relationships and dialogue to the fullest extent, before contemplating more formal actions to contest a matter.

"Relationships" is deliberately included as a variable in both the *decision to contest* an issue, and also the actual *way of handling* the dispute (Approach, to be discussed later), as it operates in both areas.

Proposition (5): An employer's decision regarding pursuing dispute action will be dependent on the extent to which the employer places value on maintaining and building relationships. Where an employer places higher emphasis on maintaining and building relationships, they will be less inclined to pursue dispute action.

Variable (6) focus on winning (trait of the specific manager)

WIN = a primary, an overriding focus on winning, usually at the expenses of the other party (win / lose)

The personal traits of the specific manager also form a variable influencing the decision process. Some managers for example, showed what seemed to be a strong personal emphasis on winning, as part of their own personal style. In Alarms for example, the manager was strongly intent on

winning, and explicitly mentioned this numerous times, as a key influence on his decisions concerning the dispute. Similarly, in Fleet, the manager at the centre of the dispute was an individual with a particularly strong agenda to have his own way, and multiple informants commented how the dispute would probably have not emerged had any of the “previous bosses” still been in the role, describing these traits as particular to the individual. (This variable also influences both the decision-making regarding taking dispute action, and also shapes the employers dispute handling approach, as will be discussed later).

Proposition (6): An employer’s decision regarding pursuing dispute action will be dependent on the extent to which the individual manager has personal traits which lend themselves towards contesting issues. Where an employer has traits that are focused on contesting issues and/or winning, they will be more inclined to pursue dispute action.

7.6.2 Stage 2: Settlement-Related variables

If employers made an initial decision to contest an issue and defend the case, the dispute would progress to the point of mediation, at which stage the employers would need to re-evaluate the situation and specifically consider the issue of whether to settle the dispute at that point. The variables listed so far remain relevant in this decision. The decision is particularly influenced by both attributions, and a sense of fairness or justice: employers believe they should only pay if they are actually wrong. At the same time, another group of variables also come into play in this stage, and these are now outlined.

Variable (7) Risk and Costs

Code: RISK /COST = focus on the legal exposure and legal risk for the organisation

If the employer wants to defend the issue, this also requires consideration of a second matter, concerning whether it is actually practical to do this. For example, even if the employer believes that they are right, and there is little substance to the employee’s claims, nonetheless it may be more expedient to settle rather than pursue the matter through to more costly proceedings at the Employment Relations Authority.

The first question concerns the issue of how legally "defensible" the employer's stance may be, even if they do believe that they are "right". This involves consideration firstly, of the issue as certain 'grounds' for dispute may involve more subjective aspects which are more difficult to defend, such as behaviours and "attitude" in performance appraisals. This can be countered however, by the extent to which the employers believe that their systems are "robust" and defensible. For example, in Redbank, the company had previously dealt mainly with disputes around misconduct, as there are few disputes regarding performance – a pattern that they attributed to the fact that their performance issues are usually so well detailed;

"mostly around misconduct rather than performance. Because the process around managing somebody out of the organization as a result of poor performance is so long and has to be so detailed and - I mean - you can't afford to get it wrong."

The extent to which an employer perceives they have legal risk, and the case can be defended, will influence the decision to continue contesting a matter. The desire to defend the issue is tempered by the reality of the costs associated with pursuing a case, and those costs take many forms including; the financial costs, time involved and the effects on morale among other employees. The ultimate test tends to be the potential "risk" in the event that the case went to the Employment Relations Authority, and employers typically describe this as involving considerable uncertainty;

"And in some cases you go to bat and you think, well what are our risks if it goes to the Authority. We think we've got a rock solid case so it probably means we've got 60% on our side or 70% because you just never know if these things - they are a bit of a lottery." (Area Manager, Road)

"they said they thought it was 60/40 and the senior guys at the top said they weren't prepared to do it unless the lawyers could say it was sort of, 70/30 or 80/20. So it's probably fair to say it's what the organization wanted to do, but weren't prepared to take a gamble like that." (HR Advisor, Redbank)

The risks and costs to be taken into account also include other aspects such as loss of face, and setting an undesirable precedent, and even the risk from outcomes such as adverse publicity;

"It would have become quite high profile, high profile. It would have gone into the public arena if it had ended up in court, which it would have. So [company] was concerned that if they lost that, it wouldn't be such a good look." (HR Advisor, Redbank)

Interestingly, these risks to the employer can be perceived as forms of power for the employee, giving the employee an increased degree of influence over the employer's actions, including the employer's decision to settle with the employee in situations where the employer would otherwise be disinclined to do this.

Proposition (7): An employer's decision regarding pursuing dispute action will be dependent on the

extent to which the employer perceives that there are risks associated with taking dispute action, and not settling the dispute in the manner that the employee seeks. Where an employer perceives that the risks to the company are low, they will be more inclined to pursue dispute action. Conversely, where an employer perceives that the risks to the company are high, they will be less inclined to pursue dispute action.

Variable (8) Sending a message - specifically regarding disputes

Code: MSG = conveying a message to the other employees, regarding disputes

The importance of precedent-setting which has been discussed as an earlier variable, takes on a specific significance in the context of mediation settlements, as it is perceived as communicating a message to other employees, regarding the extent to which employees can 'get their own way' in dispute situations. For employers, this is particularly important, as the outcome is likely to determine whether other employees pursue cases that are lacking in merit;

we don't want to be seen as something that bends with the wind under a threat (Area Manager, Road)

"at any mediation we will not pay money out if we're not in the wrong – cause you're seen as a ...soft touch and that – I think it has an effect that people – maybe we're getting less and less – we don't get those frivolous – it's only frivolous claims because the people know that we're not going to... I mean we're on pretty firm ground when we say no" (ER Manager, Road)

"we don't want to have a culture of where someone takes us to mediation and we'll just pay out" (ER Advisor, Corg B)

"won't bow whatever pressure is on us" if company is right (HR Manager, Gamma)

Proposition (8): An employer's decision regarding pursuing dispute action will be dependent on the extent to which the employer perceives that the company's actions will indicate that the company is vulnerable to employees seeking to take grievances. Where an employer perceives that settling a dispute in the manner that the employee seeks, will potentially be construed as indicating that the company is vulnerable, the employers will be more inclined to pursue dispute action, and not settle on the employee's terms.

Link with Company Policies

In addition, some of the larger companies had specific policies concerning the issue of whether or not to contest an issue, as well as the accompanying question of whether or not to settle an issue

once the dispute had developed. In essence however, these were simply pre-agreed approaches based on the variables discussed above. In some cases, during the mediation the employer-side discussed what the company policy will allow, but when this was discussed during interviews, the participants indicated that the policies were in fact derived from these variables, and furthermore that there was generally some flexibility around the policies, with specific decisions being made in terms of the same variables outlined above.

7.6.3 Decision-making regarding settlements – the conundrum

Code: SETTLE = factors concerning decisions about making settlements, especially principle versus pragmatism

Given that all of the cases progressed as far as mediation, yet only one proceeded to the Employment Relations Authority, the question of reaching a settlement represented a major decision point for the parties. The actual decision process formed yet another example of the cost-benefit type of equation that occurred throughout the stages of the dispute sequences for both parties. At this point, the choice consisted of weighing up the options of settling, compared to refusing to settle and potentially proceeding to the Employment Relations Authority;

"just the sort of utilitarian analysis of those sort of cost benefit analyses around how much time is involved, what's the worst case scenario, what's the best case scenario"
(ER Manager, Blubank)

The situation however, was not that simple, and at times could represent something of a conundrum. The "equation" could potentially involve considerable costs, and there were often very important issues at stake. For employers, there was effectively a choice between following their principles, and being pragmatic. This topic was discussed at two very distinct, separate levels though.

The first level concerned the actual cases in the present study, and among this group there were very few instances where the employer strongly objected to the employee's claims. The perceptions of the employee's motivations did vary though. In Alarms for example, the employer perceived that by taking grievance proceedings, the employee was trying to "rip" him and make money from the dispute. Interestingly, this particular employer did not resort to higher-level legal proceedings to contest the matter however, but instead acted in a more street-wise manner, faking a reconciliation at mediation so as to avoid making any payment, then subsequently forcing the employee to leave of his own volition. In contrast, with Waste, the employers perceived the employee as being motivated by his own personal financial gain; however as with the other employer-initiated terminations, the employers were willing to pay a settlement for the greater

benefits of removing the employee from the organisation. In a number of cases, the issues under dispute were perceived as "silly" (Road, Movers, Terminus), and although time-consuming they did not involve significant financial expense for the employers. In other cases, the employees were perceived as being genuine although misguided, and given the very evident decline in relationship, the employers were willing to pay a settlement. In general, with the actual cases in the study, the employers were not obviously coerced into making payments that they really did not wish to make.

The second level concerned other instances outside of the present study that the employers had dealt with and the broader issues associated with those. A number of employers recounted how, in those other situations, they had felt particularly aggrieved, perceiving that they had been forced to pay compensation when there was very little merit to the employees' claims. The common pattern was that an employee would typically commence grievance action and take the matter to mediation, seeking compensation for some alleged unjustified action on the employer's part. At that point the employer would be confronted with a choice between two unpleasant alternatives. The first option was to hold fast to one's principles and refuse to settle. This however, could constitute a very risky move as there was a possibility that the employee could take the case to the Employment Relations Authority. With the high degree of uncertainty regarding potential outcomes at the Authority, there was always the distinct possibility of receiving an unfavourable determination. Even if the employer did receive a favourable determination, this would still involve considerable expense, both financially and in other areas.

The other option involved being much more pragmatic with regard to settlement, simply weighing up the costs of making a settlement to make the employee "go away", as compared to the significant costs of attempting to defend one's position at the Authority. Even during the cases in the current study, at one point in Copier, the employee's representative taunted with the comment "it'll cost you fifteen grand to take it to court".³⁷ From this perspective, it was typically more cost-effective for the employer to make a payment, even though the employee's claim lacked merit.

"Pragmatically, as a business decision it may be cheaper to simply pay... You know, it is still - from a business point of view that is not typically, a very smart decision. The truth of the matter is that if may be cheaper to pay a few thousand to go away, why would you pay \$15,000 to be represented by a lawyer....it's just wrong" (HR Manager, Copier)

Individual managers often experienced this type of outcome as compromising their principles, and being difficult to accept;

"what the court might rule is that our penalty had been too harsh if we dismissed, and they said they thought it was 60/40, and the senior guys at the top said they weren't

³⁷ In this case, although the employers did make a settlement, it was based on the employee's merit, and not motivated by the representative's actions.

prepared to do it unless the lawyers could say it was sort of, 70/30 or 80/20. So it's probably fair to say it's what the organization wanted to do, but weren't prepared to take a gamble like that....Well I mean, I struggled with it. I understand completely why the bank took the stance they did but ethically, I had a huge issue with it." (HR Advisor, Redbank)

Employers experienced this type of situation as being equivalent to "legal blackmail" (HR Manager, Copier). Employees held considerable bargaining power, largely from the fact that employers would be very reluctant to proceed to the Authority. In instances where this employee-power was abused, with cases that lacked merit, employers perceived this as being extremely unfair, creating unjust outcomes for them. In response, some employers vowed to act purely from their principles in future, defending their cases no matter what the costs, in order to achieve justice and also send a message to other employees.

Aside from the legal issues, for an employee to gain a settlement in a situation where it was not perceived as justified, had significant implications for trust between the employer and employee;

"My view is it doesn't matter whether it's \$140 or \$140,000...We can't have people in the organization who can't be trusted with money. And it's that whole trust relationship too between us and them" (HR Advisor, Redbank)

If the employer agrees to settle on the basis of potential costs rather than the merit of the employee's case, then from the employer's point of view, the trust between the parties is gone and consequently the employment relationship ends;

"if they feel so terribly treated and no longer trust the management then any condition of settlement is that they go.. ever gets to that stage to relationships in tatters" (Area Manager, Road)

In these types of instances, outside of the cases in the study, employers therefore had to choose between two equally unpleasant options. The HR Manager in Terminus summed up the overall situation, in terms of the broader decision-making process and the eventual outcome;

Now I could sum up at the end of the day - are we right, are we wrong. If we're right, then how much is right going to cost me - you know, to prove that in the Employment Relations Authority - and it's just a matter of doing the sums, and the last one that I settled at \$4000 we would have won in the ERA but it would have cost me \$7 or \$8000 to actually prove that. As well as a lot of my time and I believe some others' time to do it. So the real cost is probably well over \$10000. Pay the money - get rid of them. Full and final settlement - get rid of them.

7.7 Decision Making Orientations of Managers

7.7.1 The nature of Orientations

While the decision-making variables described were generally shared throughout the managers, individuals tended to place greater emphasis on certain variables. The particular combinations of variables formed varying types of "orientations" to dispute handling. These are illustrated in the examples from the various cases shown earlier in Table 11, in the column "individual's orientation".

Although a particular manager may emphasise specific variables, this did not mean that these were the only factors considered by that manager. For example, while the manager in Movers placed greatest emphasis on variables associated with risk and compliance issues, he did also take into account factors such as staff morale. These were given lower priority however and could simply be a means to an end; for example, he discussed conceding to the employee's complaint in order to maintain the performance of the other staff;

"to concede to get back to work because if we continued down the same track, it would feed onto other – other union staff members" and "they won't work for the company"

In addition, while the orientations focus on specific variables, certain variables were common elements across virtually all orientations; variables such as ATTRIB, MSG, SETTLE, COST are present across a range of orientations.³⁸

7.7.2 Decision Making Orientations:

Orientation (a) Reactive - Win/Lose

The first orientation typically occurred among employers who were less able to articulate a clear strategy (but instead simply recounted the chronology of the specific dispute). Their own actions were largely in response to the actions of the employees as they initiated and pursued the disputes. As such, the employers' actions generally did not form any overall strategy. These managers usually had less experience, particularly in terms of dealing with employment disputes, and also had a very strong win/lose orientation, which led them to be strongly focused on winning at all costs.

³⁸ This again concerns the specific question of whether or not to contest a matter raised by an employee as an alleged grievance. It will later lead into the subsequent (but distinct) question of 'how' the company will defend their interests, which is subsequently discussed in the Interactions section. Some of the variables which apply in this decision area will also affect the parties' approaches and how they handle disputes.

Examples: Fleet, Alarms

Predominant codes: WIN, MSG

Orientation (b) Business Costs

A "business costs" orientation involved focusing narrowly on costs to the business, identifying and quantifying these as primary criteria for decision-making, and a somewhat calculated and dispassionate manner, with little reference to issues of relationship.

"it's just a measure of what's my gut telling me that this severance is worth. Yeah – it's worth this sort of money that in the end we settled on... it could have been – the way I played that game was to spread the load over a period of time – the financial cost. I didn't have to do that but that was just kind to – I was trying to balance one budget of that company and the way I did it I wasn't unhappy about because I knew that the time it would take me to find another [role] the financial cost that I was incurring by settlements would pretty much fill the void of in between getting one replacing [employee]."

Examples: Copier, News

Predominant codes: COST (especially the Business Costs sub-dimension within these)

Orientation (c) Relational

These managers placed significant emphasis on relationships and interpersonal aspects in managing their organisations. Consequently their approach emphasised dialogue which was described as "frank", "open", or "genuine", typically seeking what they themselves referred to as "win/win" outcomes. This orientation was associated with more experienced managers, and local managers who were more closely involved in day-to-day branch issues; presumably for these individuals, relationships play a greater role in their overall managing, compared to staff from Corporate Offices.

Managers emphasising relationships often preferred to avoid full formal disputes and were often prepared to concede on issues in order to achieve more relational goals, rather than simply focusing on matters of rights. (As will be discussed later, an emphasis on relationships was also associated with a preference for frank, open discussions as preferred dispute handling strategy).

Examples: Corg B; HR Advisor and Area Mgr Blubank, Regional Mgr

Predominant codes: RELATE

Orientation (d) Risk and compliance

Staff from regional or corporate levels, especially those with oversight of the employment relations or HR functions in a wider geographical area, typically operated from a “risk and compliance” orientation. As such, their focus tended to be on legal issues of risk, defending the company's position, ascertaining exposure and risk for the company, and selecting options to minimise this. Issues of principles and precedent were given considerable significance, along with ensuring consistency and compliance in terms of both company procedures, and broader legal procedures.

Examples: Redbank HR Mgr, Movers Mgr, Terminus HR Manager, Retail HR Advisor

Predominant codes: RISK, COST, PRINC, PREC, SETTLE

Orientation (e) Dominance and Rights

This final orientation involved a very strong emphasis on the perceived rights of the company, especially concerning their independence and desire to be free of influence from other parties such as employees. Managers functioning from this orientation sought the freedom to exercise their managerial prerogative and control staff, with what was often a very pragmatic, “take no prisoners”, approach. This involved a strong emphasis on winning, unless it was more pragmatic and beneficial for them to do otherwise. In this respect the orientation had some similarities with the Reactive Win/Lose, however a “dominance and rights” orientation involved a much more consistent, strategic approach.

Examples: Corg B ER Advisor, Gamma HR Mgr

Predominant codes: RISK, MSG, SETTLE, WIN

In one further case, the store manager in Retail was mainly focused on forwarding the matter on to other sections of the organisation, and so this orientation is shown as “Avoid”. With only one instance however, it is not possible to generalise and call as a commonly shared orientation.

7.7.3 The effect of Individuals' orientations and the overall orientation for the organisation

The relevance of these orientations becomes more apparent when one takes into account that they are associated with specific individuals. Given that, from the employer-side there were often multiple individuals from the one organisation involved in dealing with a dispute, this meant that there was often the potential for a clash between the different orientations. The specific orientation that prevailed was important as this shaped the overall approach from the organisation in handling the dispute. Table 11 (earlier) shows examples of conflicts between orientations that can be present within the same organisation, as illustrated most obviously in the cases of Copier, Retail, Corg B, Blubank, and Fleet.

In Blubank for example, there was a strong divergence between the orientation of the Regional Manager, and his perception of the way in which HR functioned;

“People Capital Advisers. They’re very strong on process and they very seldom advise us - they more articulate what the managerial processes are. I actually don’t find it a very useful role frankly. I find it - it’s quite often process over purpose sometimes if that makes sense. I think they actually attend to the bank’s legislative requirements and they’re always making sure that the process supports the bank from a risk management perspective from that - I’d call them risk managers actually, compliance risk managers, yeah.”

“It tends to be about confrontation rather than you know, looking for an opportunity for both parties to gain something from it. Yeah - so it’s a pretty In saying that I understand the role and I understand the requirements. I guess I just don’t, I don’t like it.”

Similarly, with Corg B there were very strong differences between the orientations of the local HR advisor and line managers (Relational / Dialogue orientation), compared to the Corporate ER representative (Dominance and Rights), and this surfaced with tensions which were very evident during mediation. The local HR Advisor for example cited an example of where, with the regional manager they wrote a letter of apology as part of the mediation settlement, leading to the successful restoration of the employment relationship, whereas the Corporate ER Adviser would never have accepted such a solution. While the divergent approaches were identified, some had greater influence and these are shown in bold in Table 12, with the end result being the ‘predominant’ orientation of the organisation.

Table 12: Predominant orientation of each organisation

Case	Individuals present at Mediation	Organisation - predominant orientation
ALARMS	Employer , Employer advocate	WIN
COPIER	Direct Manager , HR Manager (<i>SHT-DEF</i> ; bases decision on manager's accounts)	COST (REL)
GAMMA	HR Manager , Direct Manager , Employer advocate	DOM
REDBANK	Direct Manager, Area Manager , HR Advisor (<i>SHT-DEF</i> ; bases decision on manager's accounts)	(WIN) RISK
RETAIL	Store Manager, HR Advisor (corporate) (<i>SHT-DEF</i> , ; bases decision on manager's accounts), approval from Corporate HR Manager (by phone)	RISK
WASTE	General Mgr , HR Mgr, Advocate (external)	REL became COST
CORG - B	Regional Manager , ER Manager (Corporate) (<i>SHT-DEF</i>), HR Advisor	REL (DOM)
MOVERS	Direct Manager , Advocate (as spokesperson and a key decision maker)	RISK (DOM)
ROAD	Direct Manager, Area Manager , ER Manager	REL becomes RISK
TERMINUS	HR Manager , Lawyer	RISK
CORG- A	Regional Manager , ER Manager (Corporate) (<i>SHT-DEF</i>), HR Advisor	REL (DOM)
NEWS	Direct Manager , Lawyer (external)	COST
BLUBANK	Direct Manager, Regional Manager, ER Mgr (Corp)	REL (RISK)
FLEET	Direct Manager, Regional Manager, HR Advisor (Corporate)	(WIN) RISK-REL

KEY

COST = Business Costs
DOM = Dominance and Rights
REL = Relational
RISK = Risk and compliance
WIN = Reactive - Win/Lose

The full significance of the orientation of an organisation will become evident in subsequent sections concerning the interactions of the parties where the orientations will serve as *predispositions* towards certain ways of handling disputes.

7.7.4 Role of HR

The case of the Copier also illustrates an important issue regarding the role of HR staff in the disputes. The HR Manager in Copier, as with a number of other cases, was only directly involved on a short-term basis, with the primary function of defending the company and settling the dispute at the mediation stage. This is classified in Table 12 as a "short term defender" type of role (SHT-DEF). As such, the HR person may have only very limited first-hand knowledge of the dispute,

relying on second-hand-reports from others, yet will function as the ultimate decision maker. This becomes particularly significant in those cases where the HR staff have a Relational orientation, which could significantly influence the earlier progression of the dispute if they had been involved in those prior phases.

This very limited involvement, coupled with the fact that the HR staff were often situated in corporate offices, well removed from the day-to-day activities, gives rise to the perception that they are serving as "compliance risk managers", as described by the Regional Manager in Blubank. This is a particularly significant comment and contrast, given that this particular manager was strongly focused on low-level problem-resolution, with a strongly Relational orientation; attributes which conventionally may have been expected from HR staff. Part of the reason for this type of very limited HR involvement can potentially be attributed to the low resourcing. This was most marked for example, in cases such as Retail where there were only two HR staff covering the whole organisation across the country, with around 3500 staff.

7.8 Higher-level variables - Power and Justice

7.8.1 Justice: a higher-level variable

Again, the variables associated with this party's perspective were analysed in order to move from the level of the specific individual variables, to identify higher-level variables. . The relationship between these individual variables, and the potential higher level variables, is illustrated in Table 13. One interesting pattern that emerged from the employers' perspective concerned the significance of justice or 'fairness'. This represented a higher-level, abstract, unifying theme, which appeared to have a greater role than was evident among the employees. Justice functioned most obviously with regard to the key 'sites' of decision-making; firstly the decision to continue or terminate an employment relationship, and secondly the closely related decision of whether or not to actively contest an issue, which incorporated both the decision to initiate dispute action, along with the decision regarding settlement.

Table 13: Higher level variables in employer decisions

Variable(s)	Meaning	Higher-level variable
Variables in the decision to retain or terminate an employee; including employee influence, union involvement, and exit price <i>E/E INFL</i> <i>EXIT-P</i> <i>WANT</i>	Employee activities and influence constitute a challenge to the employer's control of their staff and activities in the organisation. Employers pay the price to retain control and remove the employee - if an employer has the financial resources, the legal requirements do not present an insurmountable barrier – they are simply a price that they must pay to maintain power	Power
Union <i>UNION</i>	Purposeful strategy of employer to prevent union gaining influence in the organisation – union constitutes a challenge to employer's power and control	Power
Significance an Issue; principle/precedent, employers' (perceived) rights, strategic, political importance <i>PRINC / PREC</i> <i>STRATEGIC</i> <i>RIGHTS</i> Credence given to other party <i>CRED</i> <i>PUB</i>	Issues that have strategic importance and will either increase or decrease the manager's power and control - protecting the perceived rights of the employer, including their managerial prerogative and the right to run their business without interference (especially from employees) Focus on maintaining and preserving perceived rights, including the influence this will then permit Not allowing the other party to be seen to be "right" so that the employer is "wrong" -constitutes giving away power	Power
Winning <i>WIN</i>	Maintaining control	Power
Sending a message <i>MSG</i>	Sending a message (specifically regarding disputes). Precedent-setting, specifically in the context of how the company will respond to the disputes	Power
Legal exposure and risk <i>RISK/COST</i>	Assessing the legal exposure and risk(how defensible), and the practical implications of these	Power
Attribution <i>ATTRIB</i>	Is the employee being "fair" - do they have genuine motivations, based on perceived injustice, or are they simply "mischief making"	Power and Justice
Right/wrong <i>RGT/ WRONG</i>	The employer's assessment of whether their own / company's actions have been "fair" and legal	Power and Justice
Relationships <i>RELATE</i>	Fairness and justice within the context of relationships, sharing influence (mutual rather than unilateral)	Power and Justice
Values <i>VALUES</i>	Matters of fairness, higher standards	Power and Justice

This variable of Justice does not function in isolation however, but is closely related with Power. The employer's response to dispute action is often 'tempered' by a need to observe Justice. For

example, employers assess whether the actions under contention are "fair", and the employers' choices are seemingly constrained by the need to observe the requirements of justice for the wider group of employees who are not directly involved in the dispute but are likely to scrutinise the company's actions. This is expressed for instance, in the variable of "right/wrong" which involves the employer's perception of whether the parties involved are right or wrong, with the employer's perception shaping their subsequent actions in choosing to contest an issue or not. Mirroring this, "attribution" involves the employer's assessment of whether the employee is being fair and reasonable in their actions, or whether they are perceived as acting out of self-interested, less constructive, motives. If the employer forms an attribution that the employee is "having them on", then the issue is transformed into solely a matter of power, dealing with an employee who is challenging the employer's control and power. The variable of "relationships" also involves both matters of fairness within the context of a relationship, along with a sharing of power, with the parties exercising mutual, rather than unilateral, influence. Finally, the decision of whether or not to settle was premised on the notion of only paying if they are actually wrong. Thus, there is a combination of both power and justice involved in these variables, as reflected in the four lower rows of Table 13.

While justice makes an important contribution to explaining the processes associated with employers, it has a limited role compared to that of Power. As with employees, Justice serves in the first instance as a variable that propels a party into dispute action, shaping the decision to enter into the dispute sequence. The most noticeable difference compared to the employees section however, is that Justice returns more obviously at the point of decisions concerning settlement. Nonetheless, Justice is only related to a smaller subset of variables and in this area its function is to modify or 'temper' the use of Power. Justice does not continue its influence throughout the overall dispute processes, and is not a significant determinant of the actual outcomes of the disputes though. This was in marked contrast to Power, which functioned obviously in this role, providing significantly greater explanatory power. Justice therefore can be considered as an important, but limited higher-level variable - however, it does not constitute a core construct.

7.8.2 Power: A Core Construct

Power also emerged as a higher-level variable, to the extent of being a construct, among employers, functioning in a similar manner to the employee section. This occurred at two main levels. The first level involved the role of Power among the variables associated with employer decision-making, shaping employers' decisions regarding taking dispute action. As discussed in the context of employer-initiated terminations, throughout the variables there is an overarching theme of retaining control and maintaining power. For example, the separate variables of "rights", matters of "principle" and "precedent", the "strategic" significance of issues, all involve the dynamic of employers seeking to maintain their own control over the functioning of the organisations. In their decision-making, employers seek to minimise the extent to which they are constrained in their right to manage their organisations and exercise their managerial prerogative. Matters associated with the specific variables of "credence" and "political significance" similarly, are to do with employers maintaining their own power relative to other parties, particularly unions. "Winning" is clearly about control and power. Power thus serves as a very significant higher-level variable among the variables associated with employer decision-making.

The second level concerns the extent to which Power also serves as a determinant of the outcomes of the dispute sequences. Once again, Power proved to be the main determining factor, consistent with the functioning of a core construct. The instances of employer-initiated terminations for example, can be interpreted as illustrating particularly clearly the functioning of Power; if an employer has a strong desire to remove an employee, then the employer's greater power will permit this to happen. Corresponding to the definition of Power in terms of influence and one party being able to get the other to do something that they "would not otherwise do", in situations where employers have greater power than employees, potentially permitting employers to maintain their control and power in the organisation, on an ongoing basis. Throughout the dispute sequence, power-based dynamics can contribute significant explanatory and predictive value in the creation of an overall model.

Employers do not have a total monopoly on power though. The conundrum of mediation settlements can be interpreted as an instance where the employment relations system does give employees some power. Potentially, employees can take action and so require employers to reach a settlement which may involve redress or compensation. In extreme cases, there may be potential for employees to abuse this power, by pursuing unmerited cases and attempting alleged 'legal blackmail', where employers feel pressured into making settlements as part of a 'pragmatic'

conclusion to the problem. In particular, the variable of "conveying a message" (regarding settlements), takes on significant importance for the employer, as a means of attempting to protect themselves against this use of power by the employees. The situations where employers feel pressured into unmerited settlements can lead those employers to perceive that they have had power used against them, and that they have been forced to do something that they "would not otherwise do", leading to the perception that they have received unfair outcomes and are not obtaining justice.

While the employment relations system may afford some degree of power to employees, this is typically very limited. Ultimately, the system, which is often perceived as the main source of supposed 'protections' for employees, does not protect their employment, in the sense of retaining the employee's job when confronted by an employer seeking to remove them. The employment relations system would seem to simply impose an 'exit price', as employers in some cases paid little attention to the law, since the legal requirements and the penalties imposed did not provide any significant deterrent effect for employers. In these types of cases, the best that employees could achieve was a more favourable settlement in some situations. It seemed that the employer nonetheless achieved their goal of promoting their own interests, and removing the employee – while the employee was less able to protect their interests, losing their employment.

7.9 Summary

A set of variables is identified which are proposed as influencing the two main employer decisions; firstly, relating to whether to continue or terminate an employee, and secondly, the decision as to whether or not to pursue dispute action. These variables form a proposed model regarding employer decision-making with regard to dispute situations. From those variables, a set of employer orientations is also identified, firstly at the level of individual managers (employers), and secondly at the level of the predominant orientation that functions as an organisation makes decisions concerning dispute action. Power emerged as a potential core construct.

Although the employer perspective has many commonalities with the employee perspective, it is a more complex matter, given the numerous individuals often involved from the same organisation, as well as the varying perspectives that those individuals bring. The employer's model is more sophisticated; while employees tended to operate at the level of their own personal concerns, employers' processes incorporated a broader range of variables and emphasised a variety of factors, ranging from the legal strength of the cases through to strategic issues associated with the functioning of an organisation.

The employer and employee perspectives have each been explored separately, in detail, so as to clearly identify the processes involved for each of the two main parties to an employment dispute. The next step is to combine these, in order to study the dynamic interaction that occurs between the parties during dispute sequences; this forms the focus of the following chapter.

Chapter 8: Power

8.1 Multiple parties in interaction

8.1.1 Introduction

This chapter sets out to achieve two main functions. Firstly, at this point, the focus of the analysis changes, moving from the earlier consideration of each of the two main parties on their own, to now apply the principles from those separate analyses to the combined dynamic interaction between parties. The interaction also becomes more complex as the other parties involved in the disputes are introduced, including the various representatives and mediators involved. The focus however remains on the core employer-employee relationship at the centre of the disputes.

Secondly, against that new backdrop, the chapter draws together the existing observations on the construct of Power and expands this into a more comprehensive model. The present chapter also explains the outworking of this construct in the interactions between the parties. The inductively derived model of Power will be contrasted with models proposed by other researchers in this area (Lawler 1992; Kim et al., 2005), to develop a more refined and comprehensive model of Power. The significance of this core construct, along with the construct of Dispute Type which emerged in the earlier analyses, and also a new, third core construct which will be introduced in Chapter 9, will be explored in the subsequent chapters.

8.1.2 The New Parties

The first new type of party to be introduced into the discussion consists of the various representatives. These comprised both internal third parties from within the organisations, as well as external third parties such as union representatives, employment advocates, and lawyers. Table 14 shows the diversity of representative types involved in the cases. Unions represented the employees in approximately half of the cases, while either lawyers or 'advocates', (sometimes referred to as 'lay advocates', meaning individuals without legal qualifications), represented employees in the balance of the other cases. Only one case involved an employee who was self-represented. Similarly, with the employers, half of the cases involved in-house representation, some of which involved in-house counsel, with the others using line managers and HR staff for representation at mediation. The balance used either external lawyers, or lay advocates, or a third category of advocates who had a legal qualification, but were not practising barristers and solicitors. Accompanying this, the second type of new party involved were the mediators in the cases. Both the mediators and the representatives were from throughout New Zealand, thus providing diversity

in terms of the individuals involved, although some of those individuals were involved in more than one case, as shown in Table 14.

Table 14: Representation and Internal Third Parties by Case

Case	Internal third party (where resolution was attempted <u>prior</u> to involving external third party)	Employer representation	Employee representation
ALARMS	Dialogue with co-owner	External advocate (#3)	External advocate (#1)
COPIER	sought contact with HR	Corporate HR & local manager	External advocate (#2)
GAMMA	HR Mgr	External advocate (#4) (legal qual.)	Union - local level
REDBANK	Attempted review with area manager	Regional HR & Managers	Union - local level
RETAIL	Discussion with store manager	Corporate HR & local manager	External advocate (#2)
NEWS	N/A	External – lawyer (#3)	Lawyer (#1)
WASTE	Attempted to involve CEO	External advocate (#4) (legal qual.)	Employee (union facilitates)
ROAD	N/A	Corporate ER & Regional Manager	Union - local level
CORG - B	N/A	Corporate ER, Regional HR & Manager	Employee self-represents
MOVERS	N/A	External advocate (#4) (legal qual.)	Union - local level
TERMINUS	N/A	External - lawyer (#4)	Union - local level
CORG- A	N/A	Corporate ER, Local HR & Managers	Lawyer (#2)
BLUBANK	N/A	Corporate ER (in-house legal) and Regional Manager	Union - national level representative
FLEET	N/A	Corporate HR (in-house legal) and Area Managers	Union - national level representative

Note: “Legal qual.” refers to representatives who hold a recognised legal qualification, e.g. Bachelor’s degree in Law, but are not necessarily practising barristers / solicitors.

8.1.3 An Overview of the Phenomena

Table 15 provides a synopsis of the interaction sequence between the main parties, of employers and employees, for each of the cases. Although rather comprehensive, this gives an introduction to the patterns of interaction that will be explored in the subsequent sections.

At this point, it is useful to note what can be observed at 'face value' concerning the patterns. This includes the marked variations in the issues under dispute. Accompanying this are widely differing perceptions, between the employer view and the employee view, of the issues under dispute, as well as the marked difference between the "real issues" that are seen as underlying the disputes, compared to the legal issues that are debated.

The disputes progress through the identifiable phases as outlined earlier, and as this occurs, there is an expansion of the individuals who become involved, and the roles they represent, on both sides of the disputes. While the conventional wisdom is that disputes should be resolved at lowest level possible, especially through direct employer-employee dealings, this often does not occur in these cases. Instead, with many cases, the nature of interaction frequently involves increasing intensity, with a spiral of action and retaliation, with an almost irreparable distancing of the parties, which culminates in the demise of the relationship. Other cases however, move through a period of conflict, but then move on to a successful resolution of the dispute and the continuance of the employment relationship

These brief illustrations foreshadow some of the concepts which will be explained in detail with reference to the cases.

Table 15: Problem Resolution Sequences Both Parties

Case (Dispute type)	Direct in-house actions by employee	Employer perspective	Employee perspective	Third-party (employee) actions	Employer response / perspective	Employee response / perspective	Mediation	Employer	Employee perspective	Outcome
ALARMS [IPC]	<i>discussions with manager & co-owner. (No procedures, just "man to man")</i>	Does not believe complaints; considers e/e at fault. Accepts other employee's account	<i>No change - manager fails to act on problems. Health crisis. No option but use advocate (AF)</i>	<i>E/e advocate Corresponds by letter only</i>	Advocate's accusing letter. No change; proceed to mediation No dialogue	<i>Determined to pursue – anger, wants something back, accountability</i>	Both use advocates. E/e seeks exit compensation - mgr refuses. Mgr suggests new role	"He tried to rip me". "No way I was going to lose"; "lesson to other guys". "X fell into the trap really that I set"	<i>Believes is valued by mgr & hopes for new role. Drops claim and returns to work.</i>	No new role No hope Relationship deteriorates Exit (T2),
COPIER [IPC]	<i>(N-P) [Did not perceive / attempt any viable options]</i>	Perceives e/e as lacking competence. Decide - to performance manage e/e or move from current job	<i>Perceives matter as ganging up, picking on. Some elements of revenge</i>	<i>E/e advocate: Corresponds by letter only (employee's choice)</i>	"incensed" at "aggressive" letter – "no alternative but to respond in kind" To mediation no dialogue	<i>"Alarmed" – hoped that advocate letter would prompt employer response and dialogue</i>	Focus on legal aspects of job change – not "real" IPC issues Rushed process. Aggressive e/e advocate.	HR backs mgr. E/e advocate "absolutely unprofessional" Worst mediator No chance for real discuss. Paid out to do "right thing"	<i>Believes HR could have "saved it". Alternatives not feasible due to IPC Personal costs.</i>	Exit (T1) at Mediation
GAMMA [IPC]	<i>Attempted discussions using HR. (Discussed job duties, not interpersonal conflict)</i>	Believe their prerogative to change duties. E/r advocate involved from early stage. No change	<i>HR perceived as colluding with manager. No hope of resolving on own. (AF)</i>	<i>Union: Letters & meetings with management</i>	No change. Principle; their prerogative. Aggressively anti-union E/r advocate resists mediation	<i>Proceed to external mediation, in desperation - perceives low probability of resolution</i>	Focus on legal aspects of job duties – not interpersonal conflict. Aggressive e/r advocate	Don't want unions. Employee's level / influence "Prepared to pay the price to see her go"	<i>Company's duplicity and they "hold all the cards". Personal costs too much – exit only option.</i>	Exit (T1) at Mediation
REDBANK [IPC]	<i>initial appeal with manager(s)</i>	Believe gradings are justified. No change; refer to senior manager.	<i>Manager biased inexperienced and unwilling to genuinely discuss (AF)</i>	<i>Union: Use appeal procedures & Discussion HR – Mgr advised of personal clash.</i>	No change. Decision is justified; (complaint just part of wider staff "kickback" new PA system)	<i>Snr manager perceived as predetermined and not open to discussion. Union prepared to pursue to mediation</i>	Direct manager not present. Discuss ratings - no resolution.	Ratings remain – as principle, "robust". Personality clash needs mediation Mgrs "had enough of"	<i>Disillusioned as no change. Loss of trust. Chooses to relocate to another site. Personal</i>	Relationship deteriorates further. Exit (T2) employee relocates, then Exit later

Case (Dispute type)	Direct in-house actions by employee	Employer perspective	Employee perspective	Third-party (employee) actions	Employer response / perspective	Employee response / perspective	Mediation	Employer	Employee perspective	Outcome
								e/e	costs.	
RETAIL [IPC]	<i>Attempted discussion with store manager.</i>	No problem exists; subjective – “not interested in acting on things like that”	<i>Store mgr fails to act. No point contacting other mgrs – all cliquy. (AF)</i>	<i>E/e Advocate: aggressive in on-site meeting – “bullied” his way through meeting</i>	No change. Employer defensive; angry at letter. All to HR. Threatening comment to e/e	<i>Expectation: show e/e “was serious” & bring attention to problem. Further diminishes trust.</i>	Very heated – insults & anger; “you’re a liar”. Aggressive e/e advocate. Results in exit compensation	Mediation: “no control”; “One of the worst ones I’ve been to”. Antipathy = no option but for e/e to go.	<i>No point staying & transfer not realistic. No respect for manager; lies. Personal costs.</i>	Exit (T1) at Mediation
WASTE [IPC]	<i>Complaints to local managers letters to CEO Increased complaints in response to lack of e/r action</i>	Decision (1) Warning: stop writing to CEO. Management perceive e/e as troublemaker	<i>Hoped letters & actions would “get decent communication going” – try to get dialogue (AF)</i>	<i>(a) Union: meetings (Discuss) (b) E/e: lodges grievance</i>	Decision (2) - To mediation & paid exit Equation: pay less than ongoing “costs of disruption & disobedience”	<i>“company won’t do what it has to do, to do the right thing and consequently I became dogmatic</i>	E/r advocate proposes exit. E/e “shocked” as expected to “talk through the problems” wants to stay.	Decision (3): allow return Equation: costs of return less than potential litigation costs E/r overrules advocate	<i>E/e continues - becomes union site rep & pursues many disputes. Personal costs.</i>	Employer Decision (4): decide to terminate Exit (T2)
CORG – B [CD + past]	<i>(N- P/E) [Believed no point based on previous experience / attempts]</i>	Company decision – don’t pay for extra hours worked without prior approval	<i>Owed pay for extra hours worked (needed to get work done)</i>	<i>None – previous experience of high expense</i>	“outraged” at e/e’s letter - didn’t talk directly - accusing and personalised	<i>decision about pay interpreted as deliberate, unfair & personal = anger</i>	Employee unrepresented. Company tries dialogue – e/e wants exit	Agree to pay as exception – long history of e/e disputes – better off gone	<i>Relieved to finally exit organisation</i>	Exit (T1) at Mediation
MOVERS [CD]	<i>(N- P/E) [Believed no point based on previous experience / attempts]</i>	Employee is unreasonable; “to go direct to the union for an issue like that is really wasting my time”	<i>Continuity of service, and pay- e/r unfair unreasonable. Purely legalistic vs moral or fair (union view).</i>	<i>Union: meetings Tactic of letters to advocate = cost employer</i>	Bypassing mgr harms relationship”. “Take that stance, we’ll take... same”. Advocate proposes tough line.	<i>“what I was owed and deserved” (rights) - “tried all the good ways to be fair but they didn’t accept it ”</i>	Issue (1): compromise Issue (2): no mediation (exit prior) Aggressive e/r advocate	Absurdity over 5c / hr esp. costs and time. Mgr would probably have agreed if e/e had come to him directly	<i>Fight over 5c shows “they treat their staff like rubbish”. “I didn’t want to give up. I don’t</i>	Mediation settlement Relationship deteriorates Exit (T2) Exit some time after Mediation

Case (Dispute type)	Direct in-house actions by employee	Employer perspective	Employee perspective	Third-party (employee) actions	Employer response / perspective	Employee response / perspective	Mediation	Employer	Employee perspective	Outcome
									want them to win"	(1)
ROAD [IPC]	(N-P/E) <i>By the time of the mediation were no longer in direct discussions</i>	Not a genuine problem. Union rep is "mischief making" & aims "stick one" to management	<i>Management protecting each other and ignoring problem</i>	<i>Union and advocate Letters then mediation</i>	More annoyance by union. Won't concede. Proceed to mediation	<i>Determined to proceed. Advocate input?</i>	"very, strange mediation" Contentious. E/r angry - wasting time. Parties rushed.	Silly dispute. Low risk of Authority & losing (cost). Won't concede. Get it sorted & back to work.	<i>Handshake & e/e agrees to destroy evidence. Advocate happy – but is it really resolved.</i>	Relationship deteriorates further. Exit (T2) - redundant some time later
TERMINUS [CD]	(N- P/E)	Employee as unreasonable; wanting restitution over nothing – wanting a fight	<i>Employer as unfair, biased in warning. Seeks apology, plus various reimburse costs</i>	<i>Union (virtually from outset) Management meetings – partly resolved</i>	Withdraws warning, but won't reimburse e/e motivation? Principle & precedent	<i>E/r needs to admit wrong and apologise / remedy. A principle – prove a point.</i>	Aggressive e/r lawyer – Company concedes partially	A silly dispute from the start. Union should not support it. Mediation OK – intervention not passive.	<i>Satisfied – got what asked. Relationship damaged – lies; "just don't appreciate what you do"</i>	Exit (T2)
CORG- A [CD]	(N- S)	Investigate offence – issue final warning (then reduce).	<i>"My only options were to fight it at great expense"</i>	<i>Lawyer: use organisation's formal processes – meetings and submissions (Procedures)</i>	Managing risk, controls, rules procedures. E/e denial prompts e/r to persist	<i>E/r reduces the penalty – but not OK - real issue is to prove actual innocence</i>	Neither party prepared to concede – to contest at next step (Authority)	Will not settle as not willing to concede at mediation	<i>Will not settle as nothing to concede at mediation</i>	<i>Remains with company – dispute proceeded to ER Authority</i>
NEWS [IPC]	(N- S) <i>[Believed seriousness of the issue required third-party]</i>	E/e lacking competence, poor relat'nship Decision: high costs to business, so terminate.	<i>E/r lacks competence abusing power. Poor relat'nship Refuses to go; sets exit price</i>	<i>To Lawyer. Letters between e/e & e/r lawyers</i>	Crucial issue so will not change – has weighed up costs.	<i>Compensating the costs that e/r imposing - has weighed up costs – seeks justice for these</i>	Lawyers de-escalate ("de-lawyer"), from stand-off, to address "real problem". Prompt & creative settle	Feel as if "won" – happy with outcome Experienced (expensive) lawyer	<i>Feel as if "won" - also happy with outcome Experienced (expensive) lawyer</i>	Exit T(1) at Mediation

Case (Dispute type)	Direct in-house actions by employee	Employer perspective	Employee perspective	Third-party (employee) actions	Employer response / perspective	Employee response / perspective	Mediation	Employer	Employee perspective	Outcome
BLUBANK [INT]	<i>effectively bypasses this, Union involved from the outset - but, ongoing dialogue, throughout</i>		--	<i>Union: national Discussions, Threat to organise. Collective rights principles</i>	Corporate HR & Regional Mgr Discussions - union & e/e to de-escalate Principle – so not concede.	<i>Injustice – job really belonged - prepared to fight to end. Maintains open relationship with mgrs</i>	“fantastic” process (Reg Mgr) Management & e/e work together to find a win-win solution	<i>e/e’s creative problem solving in worksite to find solution while maintain mgmt’s power</i>	<i>General outline of solution agreed at mediation</i>	Remains with company
FLEET [INT]	<i>effectively bypasses this, union involved from the outset</i>	Manager's right - orders staff member to transfer – collective rules allow this	employee (union) cite collective rules which prohibit this – also problems with manager's non-consultative style	<i>Union - national Official in-house procedures –. Union propose mediation (Procedures) (Discuss)</i>	“stuff ya, I'll go all the way to mediation”. Union playing hard – so I'll play hardball back...nothing to lose”. Won't “roll over”.	<i>Union “sick of being treated like this”. union rep, can't be “easy roll over”. Make a stand, Protect rights “Battle” this mgr.</i>	Solidarity; 7 people for e/e.. HR Advisor disagrees mgr. Pragmatic compromise Underlying issue: who is in control	Believes has “won”. Experiences subsequent “distance” with the union.	<i>Believe have “won” (e/e and union) – but underlying issue of manager's approach remains</i>	Remains with company

KEY:

[IPC] = interpersonal conflict

[CD] = company decision

[P/I] = policy/interpretation

e/e = employee

e/r = employer

AF = Employee Attempted in-house resolution, but Failed to resolve

N- S = In-house resolution (without external third party), not attempted due to employee's perception of the seriousness of the issue

N – P = In-house resolution (without external third party), not attempted, perceived no options relevant of available

N-P/E = No attempts at in-house resolution (without external third party), based on employee's prior experience

8.2 Core Construct (2): Power

8.2.1 Introduction

Set against the new background of the multiple parties in interaction, the discussion of the core constructs will begin by introducing the framework of a more integrated concept of Power, which combines both the employee, and employer perspectives into a single, proposed model. Following the exploration of Power, this along with the other two core constructs, will then be applied to analyse the dispute-sequences associated with each of the cases, in Chapter 10.

8.2.3 Power: An Emergent Model

Power emerged as a higher level construct from the analyses of both employee and employer perspectives, where it significantly influenced in the decision-making processes of the parties, as well as determining the outcomes of the disputes. For employees, power concerned their ability to influence their situations, and in many cases a lack of power led to termination of employment relationships. For managers, power was concerned with their right to manage, maintaining their ability control their organisations. Power is a relative matter, with one party's power being considered in relation to the other party's power. The greatest variation is in the levels of employee power, compared to the employer who typically has significant resources at their disposal.

8.2.4 Sources of Power

It is proposed that the power available to employees varies in terms of three main sources.

8.2.4.1 Source (1) Organisational factors

The organisational-level variables consist of the features of an organisational setting which permit an employee to have influence in rectifying the perceived mistreatment at the centre of the dispute, leading to resolution of the dispute in a manner which preserves the employee's interests. These organisational features include the protections available for employees, particularly with regard to changes to the employee's conditions and protection against dismissal. Of particular importance are the procedures for raising and addressing disputed issues within the organisation. This concerns not only whether such procedures do exist, but also the extent to which the employees perceive them as actually being effective. Virtually all the organisations (except Alarms) claimed to have procedures for dealing with employment relationship problems, and the Employment Relations Act

required employers to have a "plain language explanation" of the procedures for dealing with employment relationship problems, set out in the employment contracts (s54 (3) (iii); s65(2) (vi)). However, from the employee's perspective, those procedures were often perceived as having little value.

For employees, two key elements were required, centring on the need for procedures to be viewed as "credible" and "safe" (Harlos, 2001). 'Credibility' meant that there needed to be perceived objectivity on the part of those administering the procedures, and the procedures needed to be potentially able to produce changes for the employee. If the procedures were not objective; for example if the supposedly 'neutral' third-party consisted of another manager who employees considered to be potentially biased towards the "management side" in a dispute, then employees would believe the procedures were not valid and so would be less likely to use them. The second key element, 'safety' concerned the extent to which employees believed that they were likely to experience retribution for taking dispute action. If, for example, there were very low levels of conflict legitimacy within the organisation, and employees felt it was not acceptable to challenge issues and pursue disputes with management, then employees may perceive that they did not genuinely have the ability to contest issues. Raising issues and challenging management could well lead to some form of 'pay back' or retribution from supervisors or management. Even if the employee did resolve a specific disputed issue the short term, in the longer term however there was perceived to be a very strong risk that the employee may be subject to greater costs, in terms of increased unfavourable dealings from management. Consequently, employees would be less likely to use the procedures for this reason also. Overall then, where employees had access to genuinely 'credible' and 'safe' procedures within an organisation, they possessed power at an organisational level. Conversely, a lack of 'credible' and 'safe' procedures meant that employees lacked power from this source.

Retail constituted an example of low power for employees. Officially, there was an internal procedure, such that if employees were unable to resolve an issue with the store manager, they could then go to an area manager. From the employee's perspective however, this was not realistic and very few used the procedures because the managers were perceived as being unlikely to be objective or impartial;

"the only other people that you can sort of go to are all managers and they are all very, very cliquey" (Employee, Retail)

It was therefore a risky move for an employee to enter into a dispute with management, and such conflict was generally not acceptable, with potential for retribution from management;

"it requires real courage to raise such an issue with management, and after that the person who has raised the issue and pursued it has 'their cards marked' and you are treated differently" (former union representative)

Similarly, Alarms represented another example of low employee power. This was a small business run by an owner/manager, where there were no procedures established for dealing with employment relationship problems, no union involvement, and very low levels of conflict legitimacy; the capricious owner / manager would readily attempt to remove an employee if the employee was perceived as a problem.

In contrast, Fleet was an example of high power for employees, in terms of the organisational features. There were well-established job protection measures, union activity was accepted, employment relationship problems and disputes were normal and acceptable, and the internal dispute resolution procedures were perceived as being generally fair and effective;

Interviewer: You could incur the wrath of the organisation by standing up?

Manager: No it wouldn't happen here....No, not really. To be honest it wasn't - pretty good organisation like that. It's an organisation that, that values strong opinions and would not have been an issue.

Interviewer: Does the process of organising a meeting with the union to dispute the [manager's] actions bring risks for employee?

Employee: "No - not in [organisation]. Not in [organisation]. The - for him to sack me, very very hard..."

Employee: there's the process which has been set down in the contract and he has to follow it - or we have to follow it and that is, he has, we have the right to go to the meeting, he has the right to say no of course, he had the right to say I want this to happen but then he had to prove those three things."

To a large extent, it is the employer who has the ability to create the types of rules and systems within the organisation which will either empower, or disempower employees. If, for example, an employer creates an environment where there is a high level of conflict legitimacy, and structures which offer employees genuine influence in resolving problems, and this will provide power for the employees. The matter is not entirely the employer's sole prerogative however, as a collective grouping of employees through a union may influence an employer to provide these types of dynamics and structures within an organisation.

In sum then, in situations where an employee has these resources and consequently possesses a genuine, significant ability to influence their situation, such an employee will have greater power to resolve disputes in a manner which protects their own interests.

8.2.4.2 Source (2) Individual factors

The individual-level variables centre on the resources brought to a dispute by the party themselves. In the case of an employee, these include the employee's skills, the seniority and importance of their role or occupation, their contacts, as well as their resources, including financial resources.

Where an employee has valued skills, they will typically have greater bargaining power, partly due to the fact that they will be more difficult for the company to replace, while from the employee's perspective, they will be less dependent on the particular company as they are highly employable and able to obtain work elsewhere. Individuals employed in a senior role, or involved in an occupation that has high status within an organisation, will typically have greater ability to influence the course of a dispute in a manner that favours their own interests. Accompanying this, employees who have experience, skills and knowledge related to areas such as commerce and dealing with disputes and legal issues, will also have greater ability to influence the handling of a dispute and to protect their interests³⁹. In addition, where employees have a greater range of resources available to them personally, including financial resources, those employees will be more able to access options such as external representation, and avenues such as higher-level justice and employment structures, with the associated power that comes from these.

News was an example of an employee who possessed high levels of power at the individual level. This person was in a very senior role within the organisation, they worked in a professional, high status occupation, and had considerable skills and knowledge from their previous experience working with commercial and criminal legal issues. The individual was highly employable, and able to secure other employment internationally. In addition, the person had a range of influential contacts and resources which provided information and advice, as well as the ability to select and fund a highly skilled, expensive external representative.

In contrast, Retail, as cited earlier, also represented an employee with low level of individual power. The person had low skills, holding a lower-level role within the organisation, and working in a sector that was not highly valued. The employee had few contacts, and little experience of dealing with legal issues or disputes. In addition, the employee had very limited financial resources which constrained the choices of external representation available.

In sum then, where an employee has a higher degree of power at this individual-level, there is, once

³⁹ Such features are broadly associated with expert power, in terms of the French and Raven (1959) typology.

more, an increased possibility of resolving the dispute in a manner that protects the employee's interests.

8.2.4.3 Source (3) External factors

The external-level variables concern the power and resources which an employee can access from sources outside of the organisation, in order to attempt to address the perceived mistreatment that the employee has experienced, and resolve the dispute in a manner that protects the employee's interests. Typically these external resources include the power of an external third-party, such as the collective power of a union, or the expert power of a professional lawyer with the knowledge and skills that they would bring to a dispute. The involvement of a lawyer was for example, described as providing "a lot of fire power" and considerable advantage over "basically uneducated" workers. The level of power that is actually available to an employee depends however, on the third party's willingness to provide resources and support for the particular dispute. This can be partly dependent on the extent to which a party such as the union perceives the dispute as having strategic relevance for the overall union, as well as factors such as the likelihood of winning the dispute. Fleet also provided an example of a high level of external power for employees. The case involved a powerful union which gave strong backing to the employee in seeking to address the issues involved in the specific dispute, providing national-level support, with the union's National Secretary involved in handling the dispute and attending mediation. The high-level union officials pursued the matter, largely because it represented a precedent-setting issue which could have widespread effects for other of employees in the union. There was also strong support for the employee from fellow union members at a local level.

In comparison, while Redbank also had union involvement, the extent of this was much less. Only a local union official was involved, with the wider union not taking up the issue as a matter of wider significance for their members. In other words, the external third-party was either less willing, or less able to provide support, and hence power, for the particular employee.

A more extreme comparison is, Corg B, representing an example of a low level of external power for the employee. The person was unrepresented, and so had no support or power from external groups or representatives. On their own, the employee had little knowledge of the law, and in terms of evaluating the offers made by the employer for a potential settlement, the employee had little knowledge of precedents and what constituted a "fair" or reasonable settlement. Interestingly, the corporate-level employment relations advisor for the employer commented that, in general they would typically treat an unrepresented person quite differently from someone with official representation. For example, the adviser would agree to go to mediation if the person was

represented by a union, whereas if the person was “by themselves or whatever then we would - I’d just probably write a nasty letter back”.

The other main source of external power comes from the protections and support available from external structures, such as the employment relations and legal systems, and the extent to which these do, or do not, protect the employee. Where such external structures do provide genuinely improved outcomes for employees, those structures can be said to offer a higher level of power. Conversely, where such structures are largely ineffectual in protecting a party’s interests, those structures afford the party a much lower level of power

On this basis then, it is argued that where an employee possesses higher levels of external power, this brings the increased possibility of influencing the employer and resolving the dispute in a manner which preserves and accommodates the employee’s interests.

8.2.4.1 The net result: Overall power

Combining the effects of these three sources, it is proposed that the *overall* degree of power available to an employee depends on the extent to which the employee has power in each of the separate sources. Thus, if an employee has relatively high power in several of the sources, then that employee will have greater chance of influencing the course of a dispute and protecting their interests. Conversely, as an extreme example, if an employee had low power in most or all of these separate sources, then that employee’s overall power would be low, and consequently the employee would have little chance of successfully influencing the dispute.

8.2.5 A dynamic model of Power

8.2.5.1 Overview

Accompanying this, another important insight concerns the functioning of Power in the actual dynamics of disputes. It would appear that there is a series of stages which are causally related, with the progression of dispute sequences driven by attempts to use power, in order for a party to protect its own interests. Accompanying this is a process of seeking power, which occurs when initial attempts at rectifying an unfavourable situation are unsuccessful. While the organisational and individual sources may be largely fixed and difficult to change, employees will seek to gain

additional power through the use of the external sources; firstly through the involvement of external third parties, and secondly through the use of the formal employment and legal structures. The precise dynamics of this will be discussed in relation to Figure 9. This functioning of power will prove crucial in explaining the course of disputes.

STARTING POINT:
DESIRE TO ALTER SITUATION PERCEIVED AS
UNFAVOURABLE

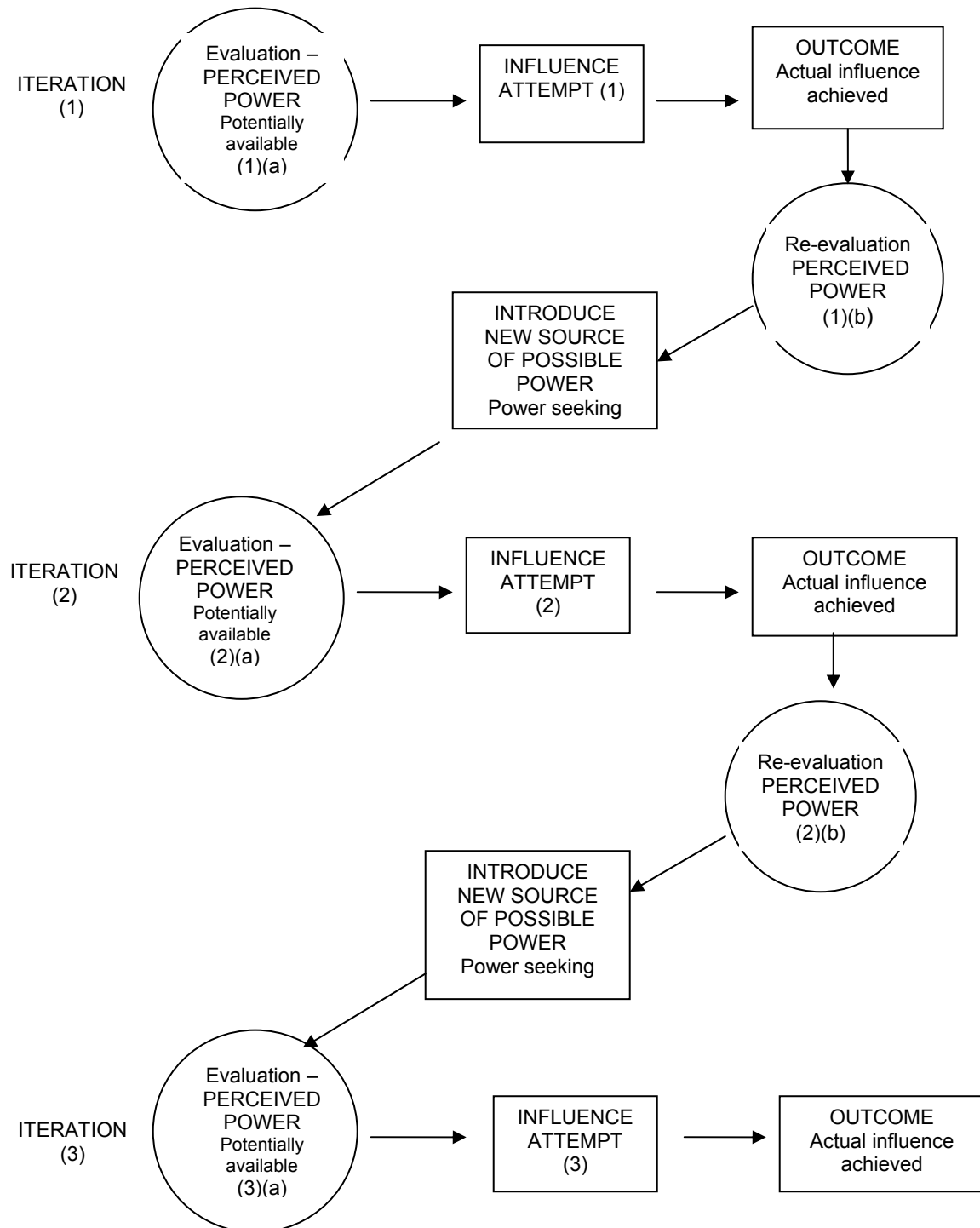


Figure 9: A model of Power in dispute sequences

8.2.5.2 Power: A dynamic process

The process begins with a party seeking to alter a situation that they perceive as unfavourable to them. The first step consists of the party making an evaluation of the power available to them. In the first iteration, this evaluation is often implicit; the party assumes that they have sufficient power to attempt action, and this assumption drives their subsequent moves. This initial evaluation is therefore labelled as the "Perceived Power potentially available (1) (a)" in Figure 9. It is important to note that it is very much a perception of the power potentially available to the party.

As a consequence of this perception, the party takes action, labelled as the "influence attempt (1)". This can include, for example, the employee's initial interaction with the employer⁴⁰. Moving to the next phase in this second iteration, the influence attempt then produces an outcome, which concerns the extent to which the party has been successful in resolving the unsatisfactory issues; in the diagram, this is labelled "Outcome: Actual Influence Achieved". For the party, this outcome provides an indication of the actual power that the party has been able to exert, and so moving downwards in the diagram, this experience then leads the party to re-evaluate their actual power, forming the revised perception of their power labelled (1) (b).

When the party perceives that they had insufficient power to successfully alter their situation, then they typically seek to increase their power through the introduction of a new power-source. This may take the form of attempting to gain additional power from external sources, such as the involvement of external third parties who may deal directly with the other, opposing party in a pre-mediation stage.

This process then leads to a new iteration, labelled Iteration (2). The party perceives that the introduction of a new possible power-source offers them a new level of power that is potentially available to them, shown as Perceived Power (2) (a). The subsequent use of this power in the second influence attempt (Influence Attempt (2)) may, for example, take the form of the newly-introduced third-party such as a representative acting on behalf of the employee, and dealing with the employer. This attempt then produces a new Outcome. In the cases, the new attempts were frequently unsuccessful in producing a full resolution of the unfavourable situation, and as a consequence, the party comes to once again re-evaluate the actual power available to them, represented as Perceived Power (2) (b). At this point, it is important to note however, that the decision-making is not necessarily made by the party at the centre of the dispute, but subsequent decisions can be largely determined by the additional party(ies) who have become involved in the dispute.

⁴⁰ In cases where such direct interactions do not occur, the influence attempt may be the involvement of a third party.

The party (individual), along with others acting for that party, may then form the perception that their lack of success is due to a lack of power, and therefore may seek to introduce another new source of possible power. This leads then to a further iteration (Iteration 3), and another repeat of the same type of process. This progression from one iteration to the next, represents a process of *power seeking*, which is driven by the interpretation of an unsuccessful outcome as a deficiency of power, and hence leads them to seek to increase their power using other sources, thus explaining the evolution of a dispute sequence from one stage to the next. Power seeking is most evident in the activity of employees, as the party that is typically the initiator of dispute actions, seeking to rectify aspects of their employment relationship which they perceive to be unsatisfactory. As will be seen in the subsequent analysis of the interactions however, such moves by one party to change the relative power in a dispute will typically provoke a response from the other party, seeking to match the new level of power. From the employers' side, the progression may be partly driven by the company's formal systems and policies which specify that additional parties, such as more senior management or external representatives, must become involved when a dispute reaches certain stages. The net result however, is still an increase in power for the employer-side as a result of the introduction of these newer sources, as the dispute proceeds to a subsequent iteration.

Overall then, a very significant feature is that the model presents a series of causal relationships, forming a progression of stages or steps. Elements such as Perceptions for example, determine the subsequent use of Influence Attempts; similarly, revised perceptions produce moves to introduce new sources of power. As such, the model represents the dynamics present in each of the cases analysed. Power can be construed as a core element (construct) which explains the progression of the dispute sequences, especially through the dynamic of power seeking. In this form, the model is slightly one-dimensional, in that it represents the perceptions and actions of one party, even though this is based on their experiences of interacting with the other party. Nonetheless, it does provide a useful foundation in the ongoing development of a more comprehensive, interactive model.

8.3 Power in the Literature

8.3.1 Introduction

The following section is particularly important as it seeks to explore the connections between the construct of "power" in the model derived from the empirical data, and conceptions in existing literature. One specific existing theoretical model is identified, which has considerable relevance for various aspects of the present research. This model, and its connections with the inductively derived model, will be covered in some detail at this point, as these create a central explanation based around the construct of Power. This now forms a unifying concept that draws together, and accounts for, a significant proportion of the phenomena already explored in the analyses of the two main parties. The model from the literature will be outlined first, and then compared with the inductively derived model from the present research. The model will also have relevance for subsequent chapters, especially chapter 10 concerning in the third main construct of "Interaction Types".

8.3.2 Positioning the Empirical Data and the Literature

8.3.2.1 Overview

Up to this point, the construct of Power, and a process associated with its functioning, have been derived inductively from the data, forming a preliminary model. Eisenhardt's methodology next involves "enfolding the literature", an iterative process whereby the researcher goes on to seek out other literature with which to compare their own preliminary findings, so as to inform and further refine the theory development. Power had not occupied a prominent role in the original literature reviewed for the study however, and so its subsequent emergence as a central construct therefore created a need to seek out relevant literature.

This presented quite a conundrum as in some fields, there is extensive material regarding power. The problem of defining the construct of power has been a recurring theme in the literature, and one is confronted by the variety of definitions that exist, attempting to express the concept in a range of ways. Authors such as Lewin (cited in Cartwright (1959) use terms such as "force" and "resistance". Chamberlain (1951) for example, defines power in the collective bargaining context, in terms of the "cost" of agreeing or disagreeing, while more broadly the notion of "influence" is

frequently used (French and Raven, 1959, Levinger, 1959). The foundations of most subsequent concepts include Weber's (1947, cited in Kim et al., 2005) classic definition of power as "the probability that a person can carry out his or her own will despite resistance". Alongside this is Dahl's (1957) classic, and perhaps more succinct, definition which was used in the present study, that "A has power over B to the extent that he can get B to do something that he would not otherwise do" (Dahl, 1957, pp.202-203).

While the concept of power appears in a variety of areas of literature, the focus of the present research however, was on "episodic" (Kim et al., 2005) aspects of power that were associated with a process-based model and so could be specifically applied to the unfolding of employment relationship problems. This therefore narrowed down the range of fields which could inform the research. After exploring a variety of areas, the bargaining literature emerged as one field which contained elements which had closer relevance to the conflict-processes and action-sequences captured in the research.

8.3.2.2 The Existing Models of Power

The work of Lawler and Bacharach and associates (Bacharach and Bamberger, 2004, Bacharach and Lawler, 1981a, b, Lawler and Bacharach, 1979) was of particular importance as this sought to link the bargaining literature with the extensive sociological literature⁴¹. These authors argued that while the sociological literature focused strongly on power, it contained a "paucity" of work on bargaining and the processes involved. Conversely, the bargaining literature had neglected the role of power, so that analyses of power in bargaining tended to be "undeveloped and implicit" (Lawler 1992, page 17). More recently, following on from those foundational works, Kim et al. (2005) developed this further, seeking to create a comprehensive model which integrates the most prominent theories of organisational power, as well as incorporating those research-based models developed by Lawler and others.

In their review of existing models of power, Kim et al. (2005) suggest that the three most commonly referenced appraisals of power are; French and Raven's five bases (1959), Kipnis, Schmidt and Wilkinson's (1980) typology of influence tactics, and power dependence theory (Blau, 1964; Emerson, 1962, cited in Kim et al., 2005). Given the status of these models, as a starting point, it may be useful to briefly outline how they corresponded to the present research.

⁴¹ This combined work is largely summarised in Lawler (1992), and so that particular publication will be referred to as the main source of information

Firstly, with French and Raven's (1959) typology, for example, in terms of bases such as Reward Power and Coercive Power, there were differences between employees and employers in terms of the resources available to each party; these concepts could therefore represent an additional aspect of the sources of power for parties. In addition, the progression to a formal mediation setting could be explained in terms of the parties seeking Legitimate Power. Beyond these comparisons however, the model offered limited explanation for the subsequent interaction sequences between the parties, and particularly the tactics utilised.

Kipnis, Schmidt and Wilkinson's (1980) typology proposes nine tactics or dimensions of influence, comprising pressure, legitimation, exchange, coalition, ingratiation, rational persuasion, inspirational appeal, consultation, and personal appeal. Interestingly, the tactics classed as "least effective" comprised pressure, coalition and legitimation, yet these tactics were used in many of the cases in the present research, while those methods classed as most effective were the least used. While this could offer some partial contribution towards accounting for the lack of successful resolution in the conflict sequences, the model on its own however has limited explanatory power, not accounting for the type of power relationship that may exist between the parties, nor for the factors influencing the type of tactic employed.

Power-dependence theory, in contrast, appeared to offer more explanatory potential, and this theory also serves as the foundation for the subsequent models by Lawler (1992), and Kim et al. (2005). The theory proposes that power is a relative phenomenon, which centres on the notion of dependence. One party's power is a function of the other's dependence on them, rather than their own dependence on the other party. For example, Party A's power is determined by the extent to which the other party (Party B) is dependent on Party A. This 'dependence' is, in turn, based upon two dimensions⁴² (Kim et al., 2005);

- (1) the value of the outcome received from the other party (outcome value), and
- (2) the availability of equally or better-valued outcomes from alternative sources (outcome alternatives)

Applying these dimensions to dependency then, A's power over B is directly related the degree to which B is dependent on A - that is, the extent to which B receives greater benefit from the relationship with A, than B can get from alternative relationships. In an employment situation, for example, an employee is dependent on the employer to the extent that the employee values the outcomes at stake, and has alternatives available - if the employee highly values the outcomes and

⁴² Since there are two parties, each with the two dependence dimensions, the combinations of these are sometimes referred to as 'four dimensions' (Bacharach and Lawler, 1981a)

has poor alternatives, then the employee is highly dependent on the employer, and so the employer has high power. Reciprocating this, an employer is dependent on the employee to the extent of the employer values the outcomes at stake and has alternatives⁴³. The limitation of power-dependence theory, in its basic formulation, is however that it provides little information concerning how the valuation of a relationship, or alternative relationships, is determined, nor regarding the ways in which power is likely to be used.

More broadly, referring to all three of the major models, Kim et al. (2005) argue that while each of the frameworks makes some unique contribution, none of them is sufficiently comprehensive to account for the others. Furthermore, and rather crucially, Kim et al. (2005) observed that "none of the theories had adequately emphasised the interactive, dynamic aspects inherent in negotiation", and the ways in which power relationships can change over time (p.801). In this, they identified a need which very closely resembles that which emerged from my own research, concerning the need for a model which can capture and explain the interactive dynamics involved. Their work however was in the field of bargaining and negotiation, which although related to aspects of conflict, was not precisely the same as the area of individual-level disputes and employment relationship problems, which forms the focus of the present research.

8.3.2.3 The earlier model: Lawler (1992)

The move towards such a new model, as proposed by Kim et al. (2005), derives largely from the work which commenced in the 1970s and is summarised in Lawler (1992), providing important foundational concepts which are subsequently utilised in the later model of Kim et al. (2005).

Lawler proposed that the three primary ways in which power had been conceptualised was as;

1. a potential or capability to influence the opponent
2. a process in which tactical actions, whether effective or not, seek to influence an opponent
3. a result or outcome of an influence process, that is, as actual or realised power

Lawler asserted that these constitute three complimentary facets of power processes, and that "power capability, power use, and actual power" are "distinct moments of a power process" (p. 20).

One important assumption was the "nonzero-sum" conception of power (Bacharach and Lawler, 1981a, b, Lawler, 1992). Traditional zero-sum approaches assumed a fixed sum of power in a relationship, such that a change in one party's power capability produces an equal and opposite change in the other's power. In contrast, the "non zero-sum" conception proposes that the total

⁴³ The model also has obvious linkages with social exchange theory

amount of power in a relationship is not fixed, but variable. Accompanying this is the important distinction between "total power" in a relationship, and the "relative power" of the parties in that relationship. Total power refers to the sum of each party's absolute power, whereas relative power refers to the power difference or ratio of each party's absolute power. The significance of this conceptualisation emerges in the proposition that the amount of 'total power' in a relationship can increase or decrease, for example as parties both become either more dependent or less dependent, without necessarily changing the relative power. If however, only one party's dependence changes then this alters their 'relative power'.

Lawler et al. (1992) also focused on what they termed "tactics"⁴⁴ and particularly the question of how power in relationships affects the types of tactics used in bargaining. Applying power dependence theory, Lawler (1992) distinguished two main types of tactics; the first being 'power-use' tactics, referring to the ways in which negotiators may attempt to leverage existing power capabilities, and the second being 'power-change' tactics, meaning the ways in which negotiators can change the power relationship (Kim et al., 2005, p. 810). Within power-use, two major classes of tactics were proposed:

- (a) conciliatory tactics which were defined as "positive acts, communicating a willingness to coordinate or collaborate", and
- (b) hostile tactics consisting of "negative acts, communicating an inclination towards competition, intimidation, and resistance" (page 24).

From this, two core propositions were articulated;

1. *Total Power Proposition*: given *equal power* between two parties, then higher levels of total power in the relationship will increase conciliation. Part of the rationale for this was that is, if parties have greater mutual dependence or "relational cohesion" in the relationship (p. 24), then the opportunity costs of not reaching a settlement, or leaving the relationship, will increase.

2. *Relative Power Proposition*: *unequal power* produces more hostility, compared to a relationship with equal power. Dependence Theory proposes that the higher-power party will use power, and so inflict costs, which eventually reduces the lower-power party's dependence - while the lower-power party adopts power-change tactics that either, increase the higher-power party's dependence, or decrease their own dependence

⁴⁴ Tactic is defined as "a move or set of moves directed at influencing an opponents cognitions or behaviour in a conflict" (p 23)

8.3.2.4 The subsequent model of Kim, Pinkley and Fragale (2005)

Building from this earlier work, Kim et al. (2005) subsequently went on to extend and refine the model further, proposing what they termed a "dynamic model of negotiator power" (page 799). In this, they sought to capture the complexity of power relations, and their dynamic transformations. Referring back to the traditional appraisals of power, Kim et al. (2005) sought to integrate the wide array of existing approaches by attempting to reconcile the numerous lists of "characteristics, properties, strategies and descriptions" and consolidate them into what they termed "a more coherent, parsimonious, and extensible framework" (page 819). As with Lawler (1992), their model built on the distinct 'moments' of potential power, power in use, and realised power.

Potential power is defined by Kim et al. (2005) as "the underlying capacity of negotiators to obtain benefits from their agreement" (page 803). Drawing on dependence theory, a party's power is thus a function of the dependence of the other party, deriving from the two dimensions of outcome value, and alternatives. Kim et al. (2005) propose that their model can incorporate French and Raven's (1959) bases, as those bases provided an explanation of the valuation-process involved, in terms of the outcomes such as rewards or punishment that may be derived. The dependency-focused model proposed by Kim et al. (2005) however, avoids having to discuss the "implications of these myriad bases of power individually" and instead allows a "higher level of analysis that can encompass these power bases" (page 803).

Perceived power, in this model, relates to the "negotiators' assessments of a party's potential power in a relationship" (page 807). Kim et al. (2005) propose that negotiators' power perceptions may diverge from their potential power in a variety of ways owing to imperfect information and negotiators bounded rationality (p. 803)

They propose that the values that negotiators attribute are based on considerations of;

- (1) "quantity", in terms of the amount of resources - employees may have incomplete knowledge, for example, not knowing the salary that could be obtained from a comparable employer - or more importantly, not knowing that alternative jobs are available and so remaining more dependent on the current employer
- (2) "probability", concerns the likelihood of obtaining those resources – in this context, trust is of particular importance as this can influence a party's assessment of what is likely to occur in the future; where there is low trust, parties are more like to believe that the other party will fail to contribute, or create increased costs for them, and so the value will seem
- (3) "weight", referring to the subjective importance of the outcomes at stake for a party, and the priorities among a party's interests

Realised Power was defined as "the extent to which negotiators claim benefits from their interaction" (p. 815). Similarly, (Bacharach and Lawler, 1981a) refer to power as an outcome; arguing that "from this standpoint, power is the equivalent of successful influence, and power that is not successful is not power at all. One evaluates power, then, by examining the outcome or result of some sequence of events or interaction" (page 45)

"Tactics": Following on from Lawler (1992), 'tactics' also formed a central focus of Kim et al.'s (2005) model. By way of definition, Kim et al. (2005) proposed that "tactics concern negotiators' efforts to use or change the power relationship" (p. 810). Acknowledging the variety of power-use tactics identified in earlier literature, and particularly the nine dimensions of influence (as discussed earlier), from Kipnis et al. (1980). Kim et al. argued that the presentation of this "overwhelming number of tactics" was "too cumbersome as a basis for theory" (p. 813). Instead, Kim et al. (2005) proposed that the model used by Lawler (1992), centring on the broad distinction between conciliatory and hostile power-use tactics, offered a more helpful and organising framework which could encompass the "myriad tactics that have been identified by Kipnis and his colleagues" (Kim et al., p.815)

The combination of these various "moments", including the relationships between perceptions, potential power, realised power, and tactics, gives rise to the overall model of Kim et al. (2005), with its dynamic nature expressed in a proposed sequence of events. In summary, the process commences with the parties' power perceptions, with the parties forming assessments of both their own power and that of the other party. Those perceptions are then seen as determining decisions regarding the tactics that the party will use; tactics thus represent the use of power. Power-change tactics seek to bring changes in the potential power of the parties, while power-use tactics can influence the amount of realised power. In this process, once a party perceives that they have sufficient power, they then use it, with the eventual outcome being the power that is realised (realised power) for that party. Tactics therefore influence negotiators' mutual dependence (power), and mediate the relationship between potential and realised power.

The significance of the model becomes apparent when considering its application to bargaining situations, and by extension, its potential relevance for situations such as employment relationship problems. One of the central issues concerns the tactical actions of parties in these situations, when viewed through a power-change perspective. If a party perceives that they do not have sufficient potential power, relative to the other party, then utilising a power-dependence framework, the model proposes that there are two primary ways for a party to improve their power, based on the two dimensions of dependency. The first is to decrease their own dependence on the other

party, and this can be achieved through either decreasing the value they attach to the other party's contribution, or perceiving increased benefit from their own alternatives. The second consists of increasing the other party's dependence, achieved through increasing the second party's valuation of the first party's own contribution, or decreasing the quality of the alternative available to the second party. Together, these constitute the four basic tactics for power change.

The dynamic nature of the model is highlighted by the fact that it is not restricted to a single sequence, but can form an ongoing process. As Kim et al. (2005) explain, the power-change tactics are not "restricted to a specific moment in a given power relation but, rather, can be initiated on multiple occasions throughout the course of a relationship", as

"these power-change tactics can also be pursued in an iterative fashion, whereby negotiators initially conclude that they possess insufficient power to obtain desired outcomes, attempt to increase this power with one or more of these power-change tactics, evaluate the effects of such attempts on their perceived power relationship, and then initiate additional power-change tactics if the desired increase in power has not yet been obtained" (p. 813)

Furthermore, the model has particular implications for ongoing bargaining relationships, as opposed to one-off situations. Kim et al. (2005) suggest that conciliatory tactics mitigate the harm to the other party, whereas hostile tactics exacerbate harm to the other party. In addition, Lawler (1992) proposed that, in an ongoing relationship where bargaining occurs regularly, the parties are likely to strive to improve their power, through the two dimensions of increasing their own, or decreasing the other's, relative power. If both parties decrease their own dependence over time, for example by developing alternatives, then the mutual dependence (total power) declines and so the conflicts that emerge should be more difficult to resolve. In contrast, if each party increases the other's dependence, then mutual dependence grows, and correspondingly, so should the likelihood of reaching agreement as the parties have greater incentive to resolve issues.

In summary then, the model of Kim et al. (2005), drawing on foundations proposed by Lawler (1992), presents a potentially significant point of comparison and relevance for the current research. The field of bargaining and negotiation represents an area which is to some extent, related to employment relationship problems, and the models contain a dynamic, process-based perspective of power. The subsequent section will therefore explore the inter-relationships between this model and the model inductively derived in the present research.

8.3.2.5 A personal comment:

At this point, it may be appropriate to describe in a more personal manner, the significance of identifying this model and exploring its ramifications. Firstly, it was immensely satisfying to finally discover a model which had such direct relevance to the research. Secondly, the fact that this existing model was discovered *after* the development of my own model, proved very exciting. The application of the model of Kim et al. (2005), was not straightforward however, and it required quite some time to work through the specific connections and evaluate the detailed linkages with the present research. As those details unfolded, the manner in which the model from literature could be construed as corroborating and expanding the theory relating to my own findings, proved particularly rewarding.

8.3.3 Exploring the relationship between the models

8.3.3.1 Overview

The comparison of the model drawn from the present research, with the “dynamic model of negotiator power” (the “dynamic model”) of Kim et al. (2005) will be divided into two main sections. The first section, covered in the present chapter, focuses on power, in terms of the potential, perceived, and realised, forms, along with the application of power-changing activity to the decision-making processes identified for the two main parties. The second section, concerning the concept of tactics and power-use, will be covered in the subsequent chapter, as these form a separate issue that is addressed in a discussion of the specific strategies and tactics used by parties in disputes.

8.3.3.1 Perceived Power, Potential Power, and Realised Power

In comparing the model from the present research with the “dynamic model” of Kim et al. (2005), there are many obvious commonalities. Both operate from a similar perspective, presenting dynamic time-based models which comprise a series of stages or “moments”. The models represent more than a single sequence, presenting an ongoing, iterative progression that is

repeated, as the parties continue to cycle through the various "moments". Also shared in common is the conception of power as relative.

In terms of the various "components" of power, the two models are strongly premised on the parties' perceptions, which may diverge from the objective 'reality' of the potential, or realised, power. In both models, there is also a series of causal relationships, with perceptions having a key, determinative role with regard to the subsequent actions of a party. The model derived from the present research (for the sake of brevity this is referred to as "the emergent model"), clearly acknowledges Potential Power as a component, although this is sometimes implicit. The "Perceived Power" at the commencement of a sequence in the emergent model, does in fact, refer to the party's perception of the Potential Power that they possess, but have not yet used. In the diagram however, potential and perceived power are not separated as clearly as in the model of Kim et al. (2005). As a revision to the representation of the emergent model therefore, in order to separate these two components more clearly, potential power is presented separately, alongside the perception (the perceived power), as shown in Figure 10.

STARTING POINT:
DESIRE TO ALTER SITUATION
PERCEIVED AS UNFAVOURABLE

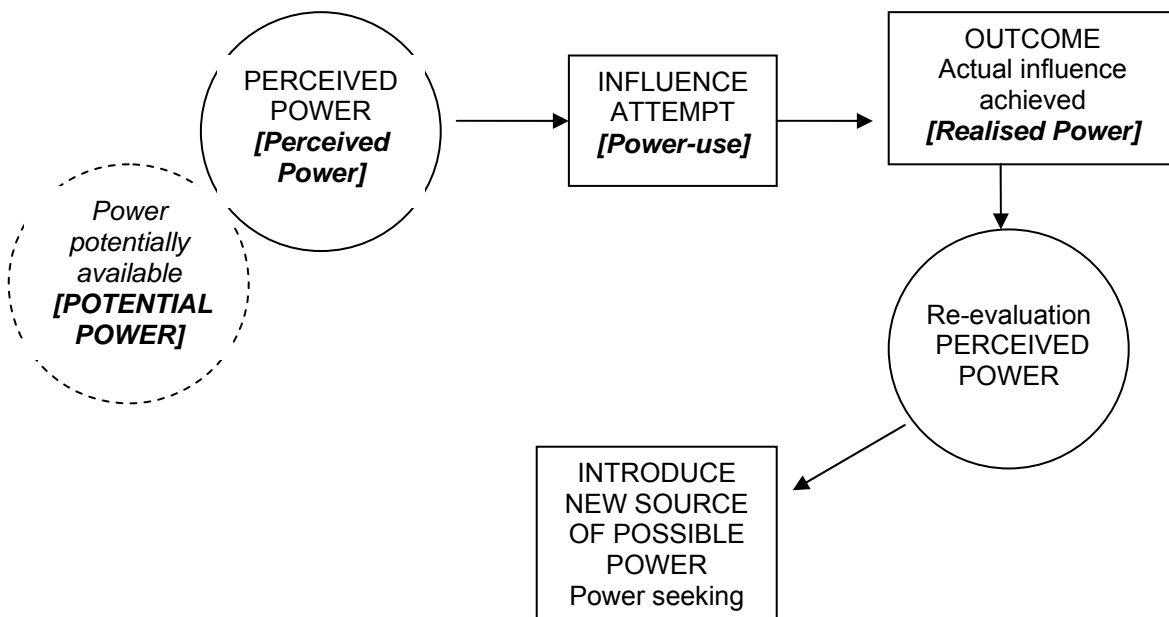


Figure 10: A revised model of Power in dispute sequences

While the model of Kim et al. (2005) utilises a broad theoretical perspective regarding the sources of power, the emergent model more specifically addresses the forms that power-sources can take in employment relationship problems, identifying the three sources; organisational, individual, and external. Thus the emergent model offers specific reasons, based around the context of employment relationship problems, to explain why parties in this particular setting do, or do not, have power.

The next component, of Realised power from Kim et al. (2005) corresponds very closely to the variable "outcome - actual influence achieved". One point of difference however, is the greater emphasis placed on those "outcomes" in the emergent model. While Kim et al. (2005) emphasise the causal link between perceived power and tactics used, (a matter that will be explored more in the subsequent chapter), in the emergent model, "outcomes" have a more central and influential role. This centres on the influence that outcomes have on shaping perceptions, leading to subsequent action; this is perhaps best explained by tracing the sequence that occurs. In the present research, in initial cycles, parties appeared to start with an implicit, and almost automatic, assumption that they had sufficient potential power to commence an Influence Attempt. It was only when they were confronted with their unsuccessful outcomes however, that they were forced to re-evaluate their power in a more deliberate fashion. This experience of low realised power, resulting from the outcomes, causes the parties to re-evaluate their perceptions of their power, and this leads the party to seek new source(s) of possible power. This latter step, of seeking new sources of power, introduces the process of "power-seeking" that is proposed in the emergent model, and as such, it represents a new element not present in the model of Kim et al. (2005). In this process, "outcomes" therefore have a significant causal relationship, determining the subsequent search for new sources of power that can be introduced into the interactions, thus providing a significant explanation for the progression of the disputes.

The most notable difference in the emergent model concerns the proposed activity of "power seeking", referring to the introduction of new sources of possible power in the progression of the various cycles of the dispute sequence. "Power-seeking" is a significant element in the 'emergent model', yet it is not explicitly present in the "dynamic model" of Kim et al. (2005). There is an interesting question as to whether this constitutes 'power-use' or 'power to change'. Kim et al. (2005) refer to 'power-use' as an attempt to leverage existing power capabilities, citing tactics or dimensions of influence such as obtaining the aid of others to help persuade or pressure a target to comply. In contrast, 'power change' concerns the ways in which negotiators can change the power relationship. It could be argued that the introduction of a new party does constitute a 'change' in the power relationship between two parties, although this does not sit neatly with the narrow concept of power-change which simply uses the two dimensions of dependence. Potentially this may reflect a limitation associated with the use of a model derived from bargaining, when applied to the situation

of employment relationship problems, with the introduction of external parties representing a phenomenon that does not occur in bargaining. This difference in disciplines forms a topic that will be discussed further in a subsequent chapter.

8.3.3.2 Decision-Making and Power-Change Activity

The proposed models of decision-making for each of the two main parties represent another important interface with models of Power. The decision-making models outlined in the previous chapters already contain the concept of power, which was identified in the data and led to the proposition of Power as a core construct. The model of Kim et al. (2005) however, permits the centrality of Power to be expressed more explicitly, with this decision making interpreted in terms of the concept of power-change activities.

Underlying power-change are the dimensions of dependency, and the value that a party attaches to either the current 'outcome' (being bargained for), or an alternative. As a preliminary observation, it would seem that, compared to economic-based models (Bacharach and Bamberger 2004), employees in the present research used a broader notion of the "value" of their employment. The 'value' of their present employment relationship emphasised aspects such as the intrinsic satisfaction and social components, rather than a narrow emphasis on wage rates and labour market factors.

Commencing from the perspective of the employees, the fact that many of the employees liked (or had liked) their jobs so much, was previously framed as a 'benefit', (or a 'cost' if they left the employment), in the social exchange type of decision-making model. Translated into power-dependency, employees therefore placed high value on their current employment relationship, which implies a higher level of dependency. This in turn, constitutes a high level of relative power for the *employer*.

As employees progress through the various cycles or iterations of the dispute sequences however, they increasingly come to the 'realisation' that they lack the ability to influence their situations. Their decision-making processes adjust to incorporate this new information as they re-evaluate their situations in the light of the experience of unsuccessful outcomes from their attempts at change. In terms of Power, at the outset of this process, employees' perceptions (perceived power) were typically shaped by incomplete knowledge ('quantity' of the resources), not knowing the true cost of remaining in the current employment relationship, and/or not knowing the value of alternative jobs. As the dispute sequence progresses however, the employees' trust in the employer decreases ('probability' aspect of perceived power), with employees having lower expectations, that the

employer will respect their own interests, or of the employment relationship providing positive experiences, in the future.

The employees' increasing awareness of the costs associated with remaining in the employment relationship affects their ongoing decision-making during the dispute sequence. Translated into terms of perceived power, there are adjustments to the 'weight' or priority accorded to various factors, as employees place growing importance on the factors such as health and well-being, that increasingly constitute 'costs' (whereas these may have been of lower significance in the original evaluation). At the same time, the factors that were previously perceived as 'benefits' may come to be accorded lower significance. In sum, the re-evaluation leads to the employee placing lower overall "value" on the employment relationship. Importantly, the consequence of this is that it eventually leads to a decreased dependence on the employer, and hence increases relative power for the employee.

The specific mechanisms for this power change process vary slightly for the differing dispute types. With cases of interpersonal conflict (IPC) for example, the value of remaining in the employment relationship (outcome value) decreases as the employee comes to increasingly experience the mounting costs, and relatively speaking, the alternatives appear better - even if the alternative simply consists of making an exit, without any real knowledge of alternative employment options. In contrast, with the company-decision-cumulative cases (CDC), the employee actively improves their alternatives by identifying a specific new employment relationship (outcome alternative), and again, reducing dependence on the employer and increasing the employee's relative power.

In contrast, changing to the perspective of employers, their decision-making processes rarely made reference to the difficulty of replacing an individual employee; the main "costs" that were mentioned centred only on aspects such as the time involved and any settlement costs. For an employer, where an employee came to be perceived as problematic, typically the value of that specific employee's ongoing relationship with the employer was significantly diminished, and as a consequence the employer's dependence on that particular employee decreased, with a low value of the current relationship, and seemingly an awareness of the value of alternative options (alternative outcome). Importantly, this represents a low level of relative power for that employee, which is strongly consistent with the employees' own perceptions that they held only low relative power. Conversely however, in the few instances where an *employer* was more dependent on the employee, that employee possessed a higher level of relative power, and hence as will be seen, this tended to be associated with better outcomes from the disputes.

The style of employers, which seemed to be more explicitly aware of the cost-benefit equation and ready to act to terminate a relationship, also translates into a greater readiness to act in order to

decrease their dependency and increase their power.

Overall then, there are many parallels between the decision-making models proposed in the earlier chapters, and the power-based models, especially that of Kim et al. (2005). The dynamics captured in the decision-making models are consistent with, and can be framed in terms of, changing a power relationship. Moves to reduce the 'costs' in a cost-benefit model, also equate to reducing that party's dependence and increasing their relative power. Taking this one step further, the notion of "costs" from the decision-making models, also corresponds to the cost-based definition of power as "the potential cost which a party can induce on another" (Lawler 1992, p.22). The accompanying "relative power proposition" suggests that unequal power will produce more hostility, as the higher-power party will use power, and so inflict costs which eventually reduce the lower-power party's dependence (through changing the dimensions of dependence), and so increase their own power. This again, reflects the processes observed in the present research.

8.3.3.4 Summary

Summarising this comparison then, it would seem that the model derived inductively from the present research, along with the model proposed by Kim et al. (2005), both highlight the centrality and importance of power as a central explanatory construct which draws together and accounts for much of the phenomena. There are very close similarities between the models, and it would appear that the model of Kim et al. (2005) is consistent with, and strongly supports, my findings. In terms of the decision-making models proposed for the two main parties, the Kim et al. (2005) model offers a framework for interpreting the phenomena observed, and a terminology which more explicitly identifies the power-related dynamics occurring.

The relevance of the model of Kim et al. (2005) for the present research was quite far-reaching, and so it will be revisited in the subsequent chapters. At the same time though, one area from the present research data that was not addressed by their model however, concerns their framing of power-use and tactics. This represents a significant topic which will be dealt with in more depth in the subsequent chapter concerning the interactions, and the specifics of the approaches utilised by the parties in those interactions.

8.3.4 'Overall Power': the ultimate variable

While the models outlined above account for the *processes* that occur in dispute sequences, it is important to note that, ultimately, the final outcome from this is what can be termed the “overall level of relative power” that a party possesses. This ‘overall power’ is the end result from the sequence involving all of the power-related processes that are proposed. At the foundation of the processes, there is typically the marked difference between employees and employers, in terms of the value placed upon the current relationship (outcome value) and the value of alternatives (outcome alternative). This creates the differing levels of dependency which produce the asymmetrical power relationship, with the employer typically holding greater power. Therefore, when the two parties confront one another and present their conflicting interests, in terms of power, the employee is at a relative disadvantage. Consequently, the next critical question becomes the extent to which a party can draw upon the three proposed ‘sources’ of power; organisational, individual, and external. For both parties these represent the main *sources* of power that can potentially be drawn upon. The significance of these sources is most crucial for employees however as they are the party that is typically the initiator of dispute actions, and the varying levels of power evident in the different cases is closely related to the differing outcomes of the cases. Thus, the end-result of the proposed processes represents this “overall power in the relationship”, for each party.

A key aspect to note, is that the ‘overall power’ is defined as the relative power of a party *while still in the relationship*, and prior to entering into exit-related power changing activities. To be more precise, in terms of the dependency model of power, it is the power that a party holds while the party *wants to remain in the current employment relationship*; that is prior to any attempt to make a change in relative power by devaluing the current outcome value or increasing the value of alternatives, as part of a move to leave the relationship. For example, an employee may progress through several iterations of the dispute sequence and eventually reach the stage of attending mediation with the employer, but may not be able to rectify the perceived problems in the employment relationship. In terms of power sources, the employee may have initially attempted to utilise organisational and individual sources of power, and subsequently engaged in power seeking, attempting to access power through external sources. None of these sources produce enough power to remedy the perceived problems though, and thus the employee’s ‘overall power’ incorporating all three sources, is likely to be low.

A critical change occurs at the point where the employee realises that their power is lower than that of the other party (the employer), such that they perceive they are unable to influence their situation, and then the employee may then move to change their power by abandoning the attempts to reform the relationship and instead move to exit. The key distinction to note is that this is the

employee's power, while still in the relationship - and prior to this point of abandoning the relationship – relative to that of the employer. This is their 'overall power' in the relationship, while still wanting to remain, and *prior to* attempts at power change from altering the value of the relationship and alternatives.

In the subsequent stages, the employee commences exit-related moves by deciding that the current employment relationship is of lower value and placing greater value on alternatives such as making an exit and/or employment elsewhere. Although these moves will begin to increase the employee's power, that increase in power stems from moving out, (or contemplating moving out), of the relationship. To gain such an increase in power, the employee has to pay the 'price' of no longer valuing, or wanting to remain in the relationship; this is a significant change, as the key element of 'wanting to remain in the relationship' has been dropped. Instead, the power is gained from devaluing, and contemplating moving out of, the relationship; it is not an increase in the employee's power while attempting to remain in the relationship on a long-term basis.

This overall level of power, while 'still wanting to remain in the relationship', represents the net power of a party in a dispute situation, and can be classed in relative terms as high or low, as outlined in the earlier discussion of the sources of power. As will be seen in the subsequent chapters, this overall level of power, or "overall power", forms the variable summing up the power status of a party, and is the representation of power as a core construct in the final overall model of the dispute process, which will be developed in the subsequent chapters.

Chapter 9: Interaction Type

9.1.1 Introduction

The analysis now continues to address the dynamic interaction between parties, focusing on the core employer-employee relationship at the centre of the disputes. Two core constructs, Dispute Type and Power, have been discussed in the earlier analyses. A new, third core construct of dispute Interaction Type will be introduced, outlining the framework and the key variables that are associated with this construct, and the manner in which it provides further insight into the functioning of employment relationship problems. This construct of dispute Interaction Type will be explored in terms of the way in which this influences the course of the dispute, with the progression towards escalation, or resolution, that occurs.

As a brief introduction, dispute “Interaction Type” concerns the nature of the actual interaction between the parties. This is largely determined by the particular dispute handling “Approach” adopted by each of the parties in the interactions, which significantly shapes the course of those events. While the decision making discussed in the earlier sections concerned the specific decision of *whether or not to contest a matter* (or continue contesting a matter) by pursuing dispute action, as opposed to withdrawing or settling the dispute, the choice of Approach concerns the question of *how* a party goes about handling the dispute

9.2 Core construct (3): Interaction Type

9.2.1 Overview

The new core construct which emerged from the analysis was the dispute interaction type (“Interaction Type”). This was particularly significant as it directly influenced the extent to which any sub-stage of the dispute process produced either escalation of the dispute, or alternatively resulted in moves towards resolution. Thus, the dependent variable associated with Interaction Type is the extent to which Escalation results, or there is progress towards resolution (see Figure 11). Thus escalation influences the subsequent course of the dispute.

The key components of the interaction are what are termed the “Approaches” of the two parties. Each party had a predominant overall dispute handling approach, (the party’s “Approach”), referring to how they handled the dispute; the combined interaction of the two parties’ Approaches formed the Interaction Type. The focus of the following discussion will therefore centre on the set of

variables which together shape the all-important Approach of each party. These include variables associated with the party, the party's representative, and the issues in contention, as well as the approach of the other party.

As outlined earlier, whereas the previous sections have addressed the matter of “decision making”, in terms of the specific decision of *whether or not to contest a matter* (as well as whether to continue contesting a matter, rather than settle) – the notion of Approach concerns *how* the parties go about handling the dispute. Some of the perceptual variables seen earlier which influenced the decision to contest a matter are also involved in shaping a party's dispute approach. However, the adoption of a particular dispute-handling approach by a party involves a different process from that prior decision, and so the construct of Approach also involves a range of other variables.

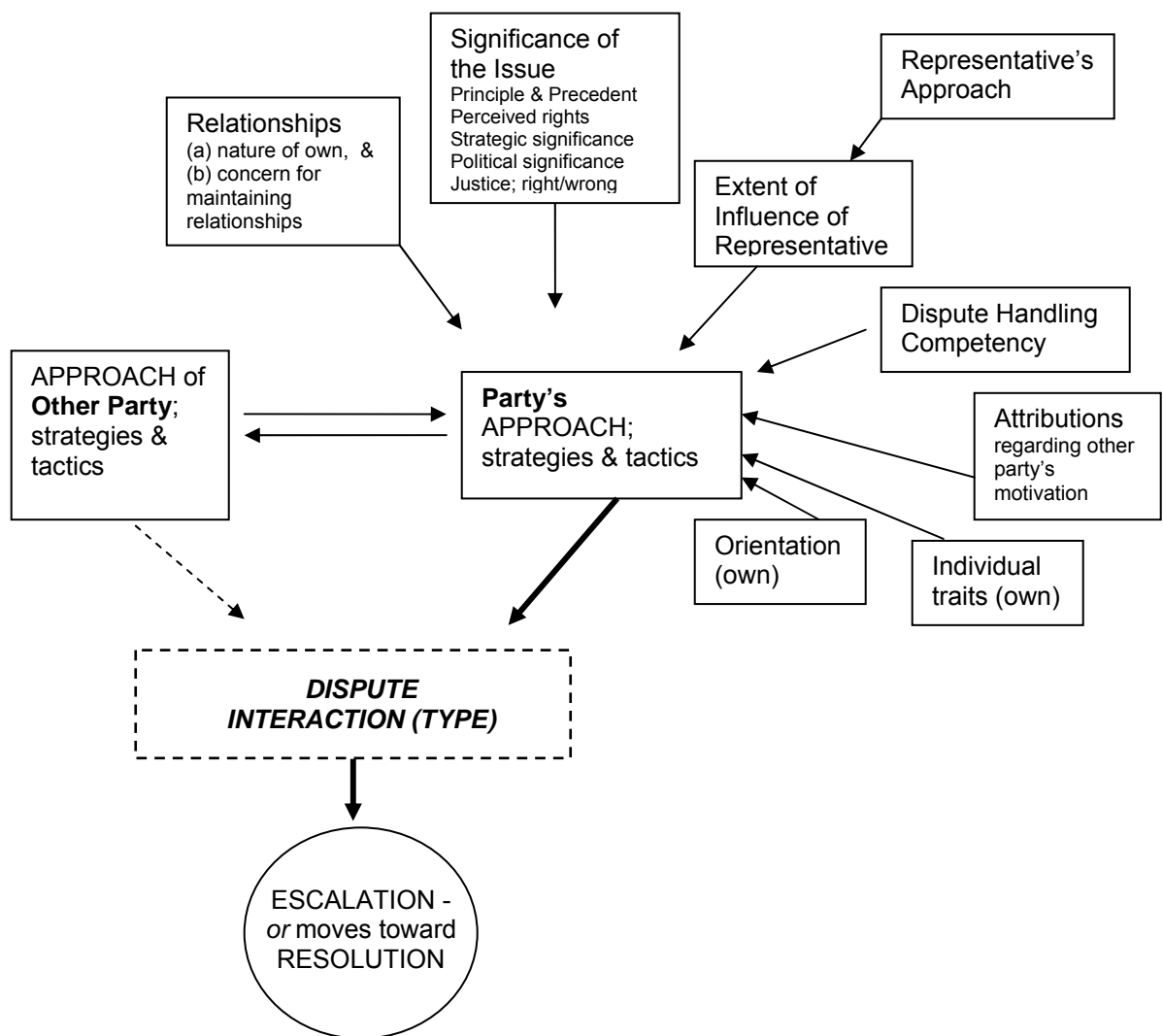


Figure 11: Variables influencing a party's dispute handling approach, and consequent Interaction

An overview of the variables follows, so as to create a basic conceptual framework. This framework is subsequently applied to the interactions that occurred in the cases, to demonstrate the extent to which the model is effective in accounting for the phenomena, and also to illustrate the types of interactions that the combinations of variables produce. The discussion begins with the dependent variable (escalation), so as to set the groundwork for explaining the functioning of the parties' dispute handling Approach. From there the attention shifts to the independent variables that collectively shape the approach.

9.2.2 Outcome / dependent variable: Escalation

9.2.2.1 The nature of escalation

The extent to which Escalation occurs in a stage of a dispute is an outcome of the Approaches of the parties. "Escalation" is a concept borrowed from the social conflict literature, and involves changes which intensify the dispute, making the dispute more difficult to resolve, and these changes are typically difficult to reverse. The changes include both the introduction of "heavier" tactics than those used before, and/or an increase in the intensity of the dispute as a whole. One particularly significant change concerns alterations to attitudes and perceptions which reduce trust and adversely affect the relationship between the parties (Pruitt and Kim, 2004). In general, escalation tends to involve a move *away from* resolution.

As discussed earlier, the present research involved two distinct time periods; firstly the period prior to the involvement of a third-party when the problem becomes a "dispute", and secondly, once the third party has become involved, the dispute-handling sequence that ensues. While the earlier period provides useful information for the evolution of the course of the dispute, it is subject to the limitations and problems involved in gathering data from a limited range of informants concerning events that happened a reasonable time earlier. Therefore, the focus is on the escalation that occurs during the sequence of events once it has become an actual "dispute".

In addition to the general aspects concerning an increase in intensity of disputes and the introduction of "heavier" tactics, four other main types of escalation-related transformations were evidenced in the cases;

- (1) stages - all the cases progressed through from the lower-level stages, to eventually reach mediation
- (2) accompanying this were changes in the type and number of participants (parties) - as a dispute progressed, third parties became involved, as well as more senior personnel from the employing organisation, and sometimes the union - for an employee, this constituted a broadening of the dispute, being transformed from an initial dispute with a particular individual such as a direct manager, to become a dispute with the overall management of the organisation
- (3) the number of issues involved - "company decisions - cumulative" (CD-C) typically involved a prior history of earlier disputes and issues, so that the overall transformation (from the initial dispute sometime in the past) moved from a single disputed issue, through to multiple issues
- (4) generalised intolerance - with interpersonal conflict (IPC), by the time cases became a "dispute", they were rapidly moving, or had reached, a point of generalised intolerance of the other party

These types of transformations closely correspond to those proposed by Pruitt and Kim (2004). In addition however, the data suggested a further dimension - the rate of change (or rapidity), as reflected in the relationship change and tenure

9.2.2.2 Example of High level of Escalation

There were several cases involving high escalation. One of these was Gamma, which illustrates a number of these principles; the dispute sequence for this is shown in Figure 12. In brief, this involved the situation where an employee had moved to a more senior role, with varied, interesting duties. Subsequently, she was returned to her original, lower role, and she contested this change. Initially, she sought the assistance of the company HR, but when this was ineffectual she brought in union assistance. As the company had a strongly anti-union stance, this inflamed the situation further. After a series of unproductive communications with the company, the union sought mediation as a way of bringing in an independent party. The company strongly opposed this, but eventually attended mediation, bringing their own representative who acted in a particularly aggressive manner. In a rather confrontational mediation session, a negotiated exit was agreed.

Multiple forms of escalation are evident in this case, with a significant increase in intensity of the dispute, and the introduction of an increasingly "heavier" tactics, particularly from the employer's side. In addition, there was a progression from low-level in-house discussions through to external mediation, as well as an increasing number of individuals involved as both sides engaged

representatives and a mediator, and finally as this was interpersonal conflict, there was a generalised intolerance of the other party (particularly from the employers side who had a clear determination to remove the employee from the organisation). The increasing intensity of the dispute is shown in Figure 12, with the shading of the arrows indicating the degree of intensity and escalation.

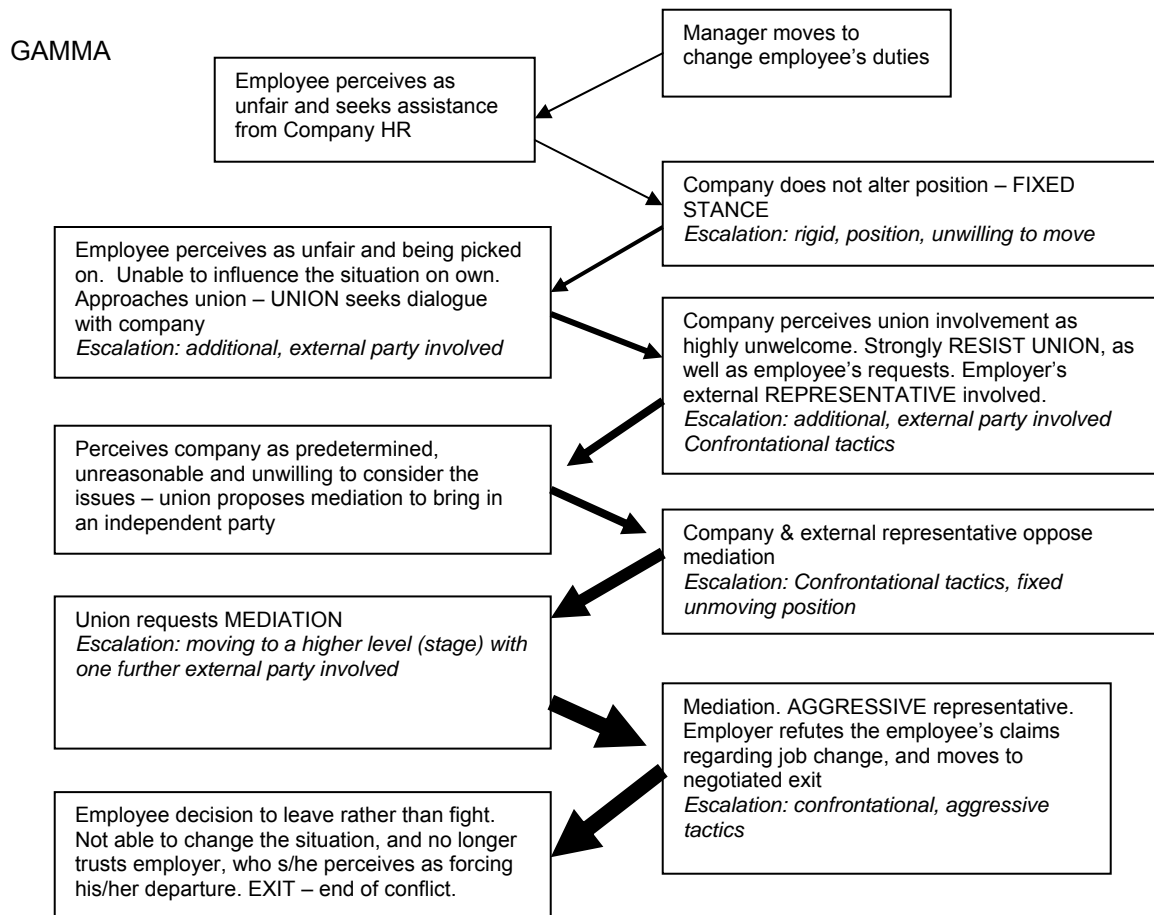


Figure 12: Sequence of escalation in the case of Gamma

9.2.3 Dispute Approach

9.2.3.1 Introducing Dispute Approach

The participants made strong connections between the approaches adopted by parties, and the way this shaped the subsequent direction of a dispute. The importance of "open and honest dialogue" and "frank conversations" was often emphasised as illustrating a type of approach which could frequently lead to resolution. Engaging in dialogue was seen as reflecting a desire to identify the true issues under contention, and to find solutions that address the needs of both parties. In contrast however, other parties were described, for example, as engaging in aggressive behaviour which lead to an increase in hostility between the parties, with a "stand-off" as the parties ceased any dialogue and instead distanced themselves from one another. This often resulted in the dispute being transformed into a legal battle which was "more of an issue about winning and losing" and lost sight of the true needs of the individuals involved.

9.2.3.2 Dispute Strategies and the Dual Concern Model

At this point, it proved useful to utilise theoretical perspectives from outside of the traditional grievance literature. Drawing on the literature from the area of social conflict, the model draws on Pruitt and Kim's (2004) Dual Concern model, which provides a perspective for understanding the dynamics concerning the interaction between the two parties. In the present study, the range of ways in which the parties in the various cases handled their disputes closely resembled the dispute handling strategies proposed by Pruitt and Kim (2004), and therefore their terminology will be used as it provides a useful, recognised description of the approaches.

The Dual Concern model proposes that there are two types of concerns present in a dispute situation. The first consists of "self concern", which refers to a party's concern about its own outcomes, placing importance on its own interests in the dispute. When a party is self-concerned, its aspirations tend to be rigid and high and it is quite resistant to yielding. The second, termed "other concern", occurs where a party is concerned about the other side's outcomes, placing importance on the interests of the other party and their outcomes.

These two concerns form the axes of the diagram in Figure 13.

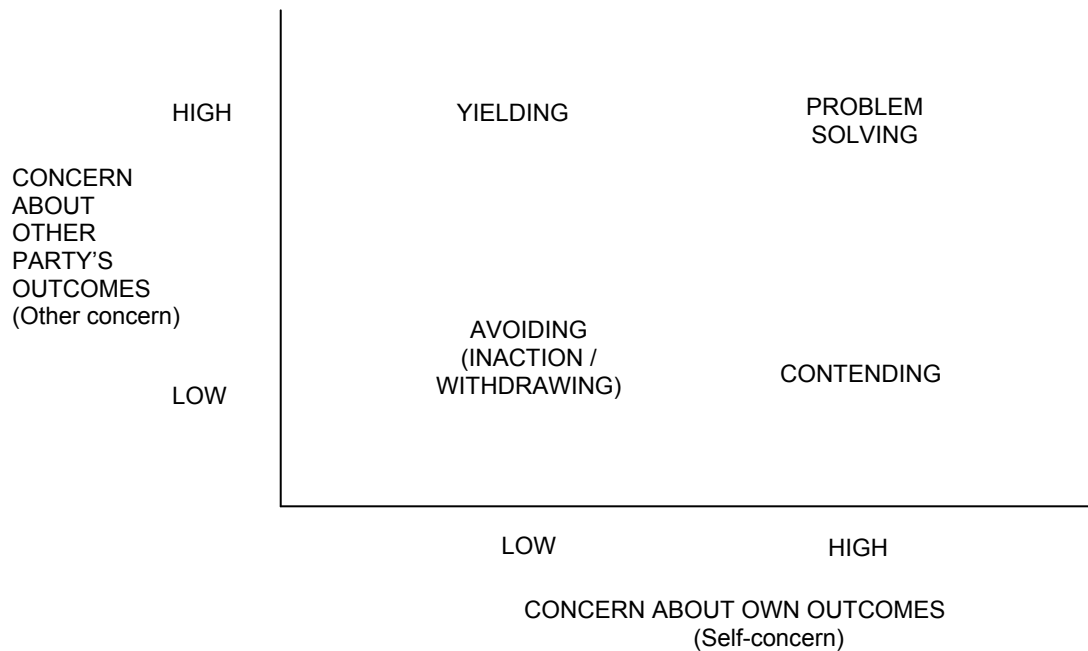


Figure 13: The Dual Concern Model (Pruitt & Kim 2004, p.41)

The combination of these two types of concerns produces four main strategies, which vary in terms of the extent to which a party has high or low levels of either self-concern, and of other concern.

The four strategies are as follows;

- *Contending* occurs when a party has high levels of self-concern, but low levels of other-concern. The party therefore attempts to resolve a dispute on their own terms, without regard to the other side's interests. When a party utilises this strategy, it maintains its own aspirations and tries to persuade or force the other party to yield. A variety of tactics are used in order to achieve these goals, including presenting persuasive arguments for one's own position, making threats, imposing penalties, or binding itself to an "unalterable" position (p. 38)

- *Problem-solving*, in contrast, occurs when a party has both high levels of self-concern, and also high levels of other-concern. This strategy involves attempting to identify the issues which divide the parties, and then moving from this to create a solution which acknowledges the interests of both sides. With this strategy, a party maintains its own aspirations, and at the same time, tries to reconcile them with the other party's aspirations. The various tactics used to achieve these goals include making (or proposing) concessions with the expectation of receiving a return concession, mentioning possible compromises, and revealing one's underlying interests.

- *Yielding* involves the same high levels of other-concern, but only low levels of self-concern. As a result, a party will lower its own aspirations, potentially making partial concessions, although not necessarily going to the full extent of a total capitulation.
- *Avoiding* has low levels of both self-concerns and other-concern. It involves not engaging in the dispute, and this can take two main forms. The first is inaction, which occurs where a party remains in contact with the other side, but does not address the conflict. The second, which occurred more commonly in this research, is withdrawal, where the party terminates the conflict by removing themselves from the dispute.

Pruitt & Kim use the terms “strategy” and “tactics” in relation to the ways in which parties handle disputes. Their model involves four “strategies”, contending, problem solving, yielding, and avoiding, which represent the four basic approaches to disputes. *Tactics* are the moves by which these strategies can be enacted. They illustrate this with the example of the strategy of “Contending”, which can be implemented through a wide range of tactics, such as persuasion and angry statements. Pruitt and Kim propose that, in reality, disputes often do not simply involve one single strategy, but rather a combination, and often a sequence, of the strategies

To avoid confusion, these dispute-related strategies, will be specifically referred to as “dispute strategies”. This is to distinguish them from the broader notion of “strategy”, in the sense of having some form of planned approach, as contrasted against a purely reactive or unplanned approach, as discussed in relation to the decision-making of employers. In the present study, the term “*Approach*” will be used as an umbrella term which incorporates both strategies and tactics.⁴⁵

9.3 Variables influencing the Dispute Approach

At this point, the focus now shifts to the factors which shape the way in which a party handles the dispute. A set of variables emerged which are proposed as influencing a party’s dispute approach. As mentioned earlier, some of these were also involved in other aspects of the dispute process, such as the decision making by managers, however they will be described here in terms of the effect they have specifically on the approach adopted by a party in the dispute.

⁴⁵ The following discussion specifically does not make the assumption that any particular strategy, and particularly problem-solving, is automatically the “best” strategy; as will be seen, contending may sometimes be necessary. The choice of strategy does however bring its own particular consequences, and the consequences of strategies other than problem-solving may not always be consistent with achieving the interests of both parties to a dispute.

9.3.1 Variable (1): The Issues under Contention

The first variable contributing to the escalation of the disputes was the nature of the issues under contention. The perspectives of both employers and employees produced surprisingly similar themes concerning the nature of the issues that either party perceived as being at the centre of the disputes. These issues were perceived by both parties as particularly important factors in their decision-making and subsequent actions. The nature of the issues was such that they motivated the parties to strongly defend their own interests by entering into dispute action, and subsequently contributed significantly to the escalation of the disputes. These dimensions are shown in Table 16.

In the literature, Pruitt and Kim (2004) list a similar set of factors which they describe as making aspirations rigid and affecting the size of a dispute;

- (a) issues which parties believe are legitimate, just (matters of justice), and that parties believe they are entitled to
- (b) important interests
- (c) matters of principle
- (d) the importance of the outcome of an issue in other realms

The latter three factors are also proposed as affecting the degree to which a party is concerned about achieving their own outcomes ("self concern"), placing importance on its own interests in the area under dispute, which consequently influences the kinds of strategies used. These are also shown in Table 16, illustrating the strong similarity between the findings of this study and the model of Pruitt and Kim (2004).

Table 16: Issues under contention in the cases

	Categories from the data	Pruitt & Kim (2004)	Occurrence in cases
important interests	important interests, such as the value of a job, respect and esteem	important interests underlie the aspirations e.g. basic human needs such as security, identity, and respect	<i>A significant element in virtually all cases; e.g. the importance of an employee's job, emotional security (bullying), an employers right to run their business</i>
principle and precedent	the perceived significance in terms of principle and precedent; <i>"the sort of instances where people slam their fists on the table and say it's a matter of principle. You know and you just can't settle those ones" (Lawyer).</i>	strongly felt principles underlie the aspirations; "deeply felt principles of right and wrong"	<i>Present in many cases as part of the employers motivation for contesting – and often reciprocated from the employee's perspective, particularly in CD disputes.</i>
perceived rights	perceived rights, e.g. manager's belief that s/he has "right" to order staff transfers; <i>"I will direct you to move, which I have the right to do"</i>	<i>[Presumably implicit in the principles or legitimate goals?]</i>	<i>A major part of the motivation of both employers and employees, defending their perceived rights</i>
justice and equity	Issues of justice and equity – e.g. employee's perception of not receiving equal treatment in Terminus, or of being deprived of aspects they believe they are entitled to in Blubank, Movers; <i>"had a job taken away from me that really belonged to me"</i>	either party regards its goals as legitimate or just, that is as outcomes to which it is entitled	<i>One of the primary driving forces behind the employees actions in pursuing a dispute, as well as in employer's reasons for defending their interests</i>
strategic significance of an issue	the perceived strategic significance of an issue; best illustrated with the manager in Fleet who openly stated his desire to "win" the dispute (regarding staff-transfer rules) as this would subsequently allow him/her to make a range of other changes	the "importance of outcomes in other realms"	<i>A significant element for managers, as well as for third parties (unions)</i>
Political significance of an issue	Political aspects, such as the desire not to give credence to the other party; the ER Manager in Blubank sought to avoid <i>"an acknowledgement on our part in some way, shape or form, that we believe that [union's] view was right and that was not acceptable."</i>		<i>A significant element for managers, as well as for third parties (unions)</i>
"either-or" options	[Discussed in "win/lose" terms by the participants]	The available options are of an either-or variety	<i>Parties often framed the issues in this manner, making the disputes more difficult to resolve</i>

The issues often involved multiple dimensions of importance, as shown in Table 16. The very contentious nature of the issues themselves was therefore highly likely to cause the parties to be rigid in their positions and less ready to concede, and for this reason they functioned as particularly significant causal factors in the disputes. The effect of the actual issues in the individual cases will be shown in subsequent sections where the issues are linked to the processes that occurred in the cases.

Proposition: The nature of the issues under contention in a dispute will influence the approach of the parties. In particular, issues which represent important interests, matters of principle or precedent or perceived rights, or justice and equity – or issues that are strategically or politically significant, are more likely to lead to parties being less willing to concede or compromise their interests.

9.3.2 Variable (2): Focus on Relationships

This variable is proposed as having two major dimensions, concerning

- (a) the nature of the relationship between the parties, especially between employer and employee, as well as between a representative and the employer or employee, as well as
- (b) the extent to which the party values maintaining ongoing relationships

This involves several dimensions, and sub-dimensions

9.3.2.1 Dimension (a) The Nature of the Party's Own Relationship

The nature of the party's own relationship (Nature) comprises three dimensions;

- (i) the duration of the relationship, framed as being on a continuum ranging from Ongoing relationships, for example unions which can have ongoing, existing relationships with employer - through to Short-Term contractual relationships, for example external representatives who are hired on a one-off basis, with no ongoing involvement or connection to the parties and are "total outsiders" to the employment relationship
- (ii) the nature of the relationship: especially whether it is positive or negative, e.g. the positive relationship with the union in Waste, compared to the adversarial, negative relationship in Road
- (iii) the degree of established collaboration and protocols (in ongoing relationships), framed as

being on a continuum, ranging from Highly Developed: formal procedures and well-established protocols e.g. Fleet - through to virtually non-existent e.g. Gamma, with in-between positions typically involving established informal protocols for consultation and interaction, e.g. Waste and Redbank, with their protocol of proactively contacting the union

Protocols developed

"So if we have an issue... the first he will hear about it will be from management, not from the employee" (GM, Waste)

"almost by default an automatic protocol that there is dialogue between you and the union before going outside to mediation service - absolutely, yeah" (GM, Waste)

We, as a courtesy, when we're going into a formal process with any of our employees who are [union name] members will advise [union name] that that's happening. So then they're usually quite pro-active in ringing the employee and saying, do you want some support? (HR Advisor, Redbank)

9.3.2.1.1 Variables influencing the existence of an ongoing relationship

It is proposed that, where there is potential for an ongoing relationship, especially between a third-party such as a union and an employer, the existence of the relationship will be largely determined by the extent to which an employer perceives a need to enter into such a relationship. Typically, unions seek to establish a relationship in order to have influence on the other party. However, for a relationship to exist, there has to be a mutual desire for this, and so the existence of relationship is determined largely by the employer's response. Some employers deliberately attempt to build relationships with a union. For example, in Waste the General Manager indicated that the relationship with the union representative was "something that we tried to create", and that "we worked pretty hard at not being friends with [delegate name] but understanding each other's positions and being professional and civil at all times", and as a result "we've got to a point now where... we trust that the other party's not going to hide anything."

The motivation for developing such relationships was sometimes attributed to the considerable power of the union. For example in Fleet, the existence of the union-management relationship with accompanying procedures and protocols was portrayed as a pragmatic way of dealing with the union's power:

"there's always been the process...from when I first come into the job, there's always been the union - the union have been a very powerful element...and if some chiefs would come up with some suggestion of what - they had to approach the local to see... And the idea is to try and have a two-way street. Nut it out and then the troops aren't kicking up. (Employee)

However, the decision is mainly a matter of the employer's perception of the need for a relationship, rather than the actual power of the union. For example, with Waste, even though the union was not as large or powerful, the employer considered it to be an important party;

"it's not in my interests to piss this guy off ", "if you work out and develop a decent relationship with the union - which quite frankly you're stupid if you don't..."

In contrast, other employers deliberately opposed any relationship with a union. For example in Gamma, the employer deliberately sought to keep the union out of operational issues, "to remove the union or distance the union from any decision-making processes". The union was perceived as attempting to escalate issues, to "trump it up", and politically "make mileage" out of issues. The company's stance was very explicit and clear; "our strategy is black and white. We don't want unions here".

The precise nature of the relationship varies by employer and union though, and even by subgroups of the employing organisation and the union. For example in Blubank the Regional Manager had markedly different relationships with the local union officials, compared to the union's national office. With the local union representatives, there was a well-established relationship with strong collaboration as both parties worked from common principles, with the result that disputes were frequently resolved;

there are local [union] reps here who I find very challenging people to deal with but very ethical people to deal with so you know, if occasionally there is some grievance that gets to - and it tends to be informal in the first place - it gets to the [union] local rep, they'll telephone me and organize and facilitate a meeting and we will tend to go through a mediation-type process well before it becomes formal.

...there's a reasonable amount of mutual respect there. And, the way that - what they're trying to do. You know, and we might disagree about some - there might be - the line between us might be reasonably broad but actually in terms of sort of, common set of core values, I think there's much more alignment than non-alignment. So they tend to be very, very well handled I feel. I feel reasonably confident in those that we will get a win-win. I think that the underlying motivation of the person in that situation tends to be for the staff member and also takes some account of the issues of running the business. I would say we'd have a very strong relationship with them here.

However, that type of relationship did not exist with the national-level officials of the same union, and this was attributed to the very different focus at that higher level, which made resolution much more difficult;

If I talk about [representative] there is a - I have very little respect for her. I mean I have an understanding of what she's trying to do and I understand what drives her to organize the whole country around particular issues and - I think she loses people - I have a significant disrespect for her because she doesn't take account of individuals and in this it's all about -

she doesn't see individuals, she sees causes and things like that - and so I think that's why if it gets to there, I think then it, frankly I think it's custard at that stage.

As a consequence, parties with an ongoing positive relationship are more likely to seek to preserve and maintain their relationships. For example with Corg B, the corporate-level Employment Relations Adviser expressed how she recognised that it was necessary to maintain such a relationship'

"like the Employers Association I worked for that was 99% of the time how we would do things... whereas here, I guess because we have more of an ongoing relationship ourselves with the unions, you know, we try to be nice with them and talk about it and stuff...

"you know that it's not always going to go smoothly but you still have to have a working relationship so you're not going to want to do anything really to piss each other off but you know that if you to annoy each other, then it's not often a personal thing it's just that you're looking for the best interest of whoever you're representing"

The existence of protocols between the parties, and a relationship of trust, also allows parties to seek to resolve issues early, through dialogue and informal meetings, thus avoiding escalation and an increase in the scale of the dispute. Conversely however, a negative relationship with a third-party can negatively affect the dispute; for example, in Gamma (where the company actively opposed unions), it worked against the employee's interests to involve the union as this produced additional escalation in the dispute. Similarly, in Road, the negative relationship between the local union delegate and company management resulted in the employer tending to doubt the genuineness of disputes, and dismiss them as being simply "mischief making" on the part of the delegate.

At the other end of the continuum however, where the third-party is an "outsider" with no ongoing relationship, this can have a very different effect on the way such representatives handle the employment problem:

"Generally speaking a lot of employers realise that they've got - whether they like it or not, they've got an on-going relationship with the union. Like it, don't like it - doesn't matter - it's a fact of life. We realise the same. We've got to go down and deal with the boss every day. So we like to settle things in an amicable manner. Whereas people like [advocate name] - they go down, and even some other advocates go down there, they can cause as much shit as they like, get their cheque and walk away. They don't have to go back there and deal with the aftermath or deal with the next dispute because the last dispute soured everybody. Whereas, as a union, we realise we're in an on-going relationship, whether we like it or not as well. We might think they're pricks or they're great guys. It doesn't really matter at the end of the day because it's about working for the membership, not about getting a win for the union. We might get a win but if we piss all the members off or piss the boss off and every time we walk on the site he gets anti, we haven't done anything" (Union representative, Movers)

Variable (2a): the nature of the relationship between the parties, especially third parties

Proposition (2a): the nature of the relationship between the parties will influence the approaches adopted by the parties. In particular, when there is a positive ongoing relationship between the parties, they are more likely to adopt approaches which protect that relationship.

9.3.2.2 Dimension (b): Concern about Maintaining Relationships

“Concern about Maintaining Relationships” (Concern) is defined as the extent to which the party is concerned about maintaining relationships, especially the employer-employee relationship. This dimension is also framed as being on a continuum, ranging from High concern through to Low concern

Concern is linked to the first dimension (Nature of the party’s own relationship) in that, as outlined, parties who are in an ongoing relationship (especially a positive one), are likely to be more *predisposed* to seek to maintain that relationship. The above quote from the union in Movers illustrates this type of aspect. However the dimension of Concern is distinct in that the parties’ actual behaviour does not automatically match this predisposition. Some parties who are ostensibly in ongoing relationships, act in a manner that appears contrary to this by adopting behaviours that potentially harm the relationship. For example, while some unions used more collaborative, problem-solving approaches which fostered their ongoing relationship with the employer, other unions adopted a particularly aggressive approach, in the belief that a confrontational style and “winning” is more important than maintaining relationships with the employer. At the other end of the continuum, among external representatives there was also considerable variation in the concern for maintaining relationships. Some lawyers for example, were particularly careful to attempt to maintain the relationship between the employer and employee, adopting relationship-sensitive tactics such as minimising their own overt involvement in order to reduce the chances of escalation - even though as external third parties, they were not involved in an ongoing relationship themselves.

The nature of the party's own relationship, and their concern for relationships, therefore both influenced the core variable, the Dispute Approaches that the parties adopted.

Variable (2b): the extent to which a party is concerned about maintaining the relationship between the parties, especially the ongoing employer-employee relationship

Proposition (2b): the extent to which the parties have concern for maintaining ongoing relationships will influence the approaches adopted by the parties. In particular, when a party is concerned to maintain relationships, they are more likely to adopt approaches which protect that relationship.

9.3.2.3 The connection between Relationship and Approach

Relationship exerts a causal influence on Approach; having an ongoing relationship, and/or concern for maintaining relationships, is likely to lead a party to utilise certain approaches which will foster (rather than harm) the particular relationship. Relationship, and particularly the dimension of "concern about maintaining ongoing relationships", constitutes a party's *intention* or desire. However, Approach concerns the party's actual *behaviours* – the strategies and tactics that they implement, leading to consequences such as escalation or resolution.

The connection can also function in the opposite direction, as the use of a particular approach can affect the relationship. For example a contending approach, where one party prevails at the expense of the other, is likely to be harmful for a relationship, whereas a problem-solving approach with a "win-win" outcome for both parties is likely to be more supportive of the relationship.

If it is an ongoing relationship that a party wishes to continue then "you've got to be very careful that you don't make that untenable"; everyone needs to walk away "feeling good about it", "that you've reached compromises and that there is some dignity in it for everybody" (Union representative, Terminus)

it's not a war between [lawyer name] that that person, it's not a war at all. Quite frankly what it is, is [lawyer name] on behalf of his client working with the other advocate and the mediator to try and effect a settlement which everybody can leave that room knowing "Well, I've done quite a good job." (Lawyer, News)

9.3.3 Variable (3) Dispute Handling Competency

9.3.3.1 Defining Dispute Handling Competency

Another variable which emerged from the data was termed the "Dispute Handling Competency" of the parties. This was defined as the extent to which a party possesses an awareness of the impact of their own actions on relationships, especially the core employer-employee relationship, and on the dynamics of a dispute. A competent party was able to select from a range of actions in order to

influence the dispute in a way that maintains or enhances that relationship. Competence requires an awareness of the dynamics of conflict, and what is feasible in specific situations. As this proved to be a particularly important variable, it will be discussed in some depth, as it applied to the differing parties involved in the disputes.

9.3.3.2 Competency as distinct from experience

A dimension contributing to competency was the individual's previous experiences of disputes. This was particularly evident with the employers and employees where there was considerable diversity, with some having no prior experience of employment disputes, while others had significant experience. Among employees, the extent of an employee's prior experience significantly influenced their awareness and clarity regarding their own situation. At one extreme, the cases involving sudden decline of the employment relationships represented situations where employees had little opportunity to gain experience. Consequently, the employees in Alarms, Copier, Gamma, Redbank and Retail, had very little previous experience of disputes and initially entered into their dispute journeys with comparatively high levels of hope and expectation that their situations could be successfully resolved. As their disputes progressed however, these employees experienced a series of rapid shocks and surprises as they discovered the reality of their disputes. In contrast, with situations involving longer-term relationship decline, such as the CD-C disputes where the employees had the opportunity to observe and learn from other, earlier dispute incidents, (including ones that they had been involved in themselves), the employees entered into the specific dispute during the time of the research, with greater awareness and a more realistic appreciation of the situation they were confronting. Experience also included aspects such as prior involvement with representatives (usually unions), which afforded the employees greater readiness for handling disputes. For example, the employees in Corg B, Movers, and Terminus were able to be much more strategic, anticipating that the current dispute may not be satisfactorily resolved, and preparing for the exit at a time that was suitable for them. Among managers also, some had considerably less experience, particularly the direct managers in Fleet, Redbank and Movers, and a number of participants referred to this as a factor influencing the course of those disputes.

While experience *contributes to* competency; it is not the same as competency; for example a party may have been involved in handling disputes for some time, yet still only function with one particular approach, irrespective of whether or not this is best suited to the situation, thus demonstrating low competency. In contrast, more competent parties can typically choose from a range of approaches, and are likely to utilise more of a contingency model, where the approach they adopt will vary according to the particular situation. For example, the representatives in News exhibited high levels of competency, with a keen awareness of the risks associated with various approaches, and so

they selected methods to best match the environment that they were functioning in. One of the lawyers was renowned for his ability to avoid escalation and long-term harm to relationships, utilising what others described as an approach that “leaves only footprints”. Instead of having one single standard pattern, their potential methods ranged from providing behind-the-scenes background advice and “ghost writing” communications for their clients, through to full representation in the more confrontational styles of the formal legal settings;

I'm always making a judgement call whether or not I need to be in the mediation or not. It goes back to a very early point that I made...that when a person's represented by a lawyer the stakes are different. The stakes maybe different and the dynamics may be different (Lawyer 3)

and I've been very, very conscious of training myself to avoid a natural instinct to attack and it's taken me a long, long time because I was a combative little prat, and I still am when it comes to cross-examination and that sort of thing if you're allowed in the Employment Relations Authority, but at mediation I actually try and come across as a lot more urbane and a lot more conciliatory (Lawyer 3)

And often I would restrict my - in one case particularly I didn't until the very end communicate anything in writing at all to the employer and all I - we - I was drafting emails that were sent by my clients so the - so far as until right at the very end...we decided that whilst everyone was productively working towards a result, what on earth was the benefit in it being open that there was a lawyer involved. You know, probably none. It was totally counter-productive was my view and so we didn't...simply, it was better that it was sort of de-lawyered". (Lawyer 1)

Other less competent representatives consistently used one single approach, even when this was less appropriate to a situation. For example, the employee's representative(s) in both Copier and Retail used a particularly aggressive, confrontational style, which the employers experienced as focusing on “trying to score technical, legal points against you”, which significantly escalated those disputes, leading the employers to respond with a similarly Contending approach, and thus significantly reducing the chances of resolution.

Dispute handling competency was also a critical variable among managers. The General Manager in Waste for example, illustrated high levels of competency. He was able to articulate a very sophisticated approach to dealing with employment relationship problems, which centred on acting early to address issues, with open discussions and a problem-solving approach; (this was also reflected in developing an ongoing relationship and protocols with the union). However, when confronted by an employee who did not respond to this approach, the manager was able to respond to the specific contingency and change to a more formal, hard-nosed approach.⁴⁶

⁴⁶ Some managers explicitly discussed the importance of competency of other managers. For example, in Gamma, the HR Manager made repeated mention of the importance of the competency of their managers as contributing to employment relationship problems; “So again it's training our, training our managers and our supervisors as to how to address problems properly - which they are not good at”.

Similarly in Corg B, the managers already possessed high levels of dispute handling skills from the nature of the work the organisation was involved in, and this was reflected in the way the managers handled employment disputes;

"they are all social work trained traditionally so they - I mean the way they approach things...they tend to go about it in a way that isn't going to create such a furore.. the fact that there is hardly any [occupational group] employment relations problems, I think that is testament to the way that are managed from their social working angle" (HR Advisor)

One particularly clear contrast came in the case of Fleet where the local manager was new to the management role, and repeatedly emphasised his lack of experience; *"I'm a brand new chief. That's what you need to remember. I've just been in the job just a year now."* In terms of dispute handling, this was reflected in a lower level of competency, particularly his lack of awareness of the potential consequences of his tactics, believing that he had "nothing to lose" from using more aggressive tactics;

"And ah, so I thought I'll play hardball back in the end. I had nothing to lose. I couldn't see having - I couldn't see what I had to lose".

Later however, in hindsight, he realised that in reality his actions had significantly affected the course of the dispute;

The risk of first of all of playing hardball is that it clearly set the tone now - like said we're not too comfortable at the moment. Myself and the union have - we've got a bit of distance between us. That's happened. Okay... and even in the last two weeks, we've had a couple of tiffs. So that's the real risk, okay. It's a big risk for me because it means I'm continually fighting them all the time.

Interestingly, the more experienced HR Advisor in the same case, who had a higher level of dispute handling competency, commented on the local manager's lack of insight;

"...that one yesterday, you know, unfortunately that [manager] had gone off and done a whole lot of things before he even thought of talking to me about it and if he had spoken to me about some of things I would have said, no, don't do it like that"

Employees also demonstrated considerable variation in their choice, and implementation, of dispute resolution actions. While parties with lower competence may have had the *goal* of addressing and resolving problems in a relationship, they unknowingly embarked on a course of action that produced very different consequences. For example, in both Corg A and Waste, the employees placed high value on maintaining their ongoing employment relationship. Despite this, the Waste

employee was apparently unaware that the behaviours s/he engaged in would produce the very high levels of escalation that led to the eventual destruction of the relationship. In contrast, the Corg A employee demonstrated high competency. He was well aware of the risks and costs of taking formal action against the employer, and so deliberately acted in such a manner that the dispute remained confined to the one single issue, with the rest of the employment relationship remaining unaffected. As the HR Advisor observed, *“if it was anyone else they probably wouldn’t have still been there, but it was something about him, that he bore no malice”*.

Similarly in Blubank, the employee demonstrated high levels of dispute handling competency, engaging in her own low-level dealings with the Regional Manager and constructively exploring solutions at a branch level, while consistently seeking to preserve the overall employment relationship. These aspects significantly contributed to the final outcome of the dispute;

“I was just trying to let him (Branch Manager) still be the boss, still have his power without making it look like somebody had come up, slipped the mat from underneath him...And I said that to him (Regional Manager) several times – you know, I’m trying to do this the very best way I can so [branch manager] doesn’t end up with egg on his face and they said, yeah, we’ve noticed that [name] and thank you for that...and we really appreciate that and [branch manager] said you know, you’ll go round the branch here and you don’t have any animosity to him – you chat to him like there’s nothing going on”

While Relationship, and particularly the dimension of "concern about maintaining ongoing relationships" (Concern), constitutes a party's *intention*, dispute handling Competency is distinct from this as it concerns the party's actual *ability* to implement this desire. It is also distinct from Approach in that a party's Competency will determine the Approach that is used - a party with higher levels of Competency will thus be able to select the most appropriate Approach for the situation.

Proposition (3): the extent to which a party possesses “competency”, meaning an awareness of the impact of their own actions on relationships, and on the dynamics of a dispute, and is able to select from a range of actions in order to influence the dispute in a way that maintains or enhances that relationship – will influence the approach adopted by the party. In particular, when a party has a high level of competency, they will be more likely to use approaches which protect relationships.

9.3.3.1 The Differing Ideologies

Two very different philosophies are evident among practitioners, concerning employment protection and grievances. One model has a more optimistic slant which emphasises the preservation, and where possible, the restoration of employment relationships. This model was viewed by many participants as underlying much of the employment legislation in force at the time of the study. The alternative philosophy however, is more pragmatic, emphasising that in certain circumstances the parties to an employment relationship will simply be incompatible, with virtually irreconcilable differences and therefore the goal of restoring such relationships is impractical. Instead, dispute resolution should focus on early recognition of such incompatibility before the parties become entrenched and the dispute becomes more acrimonious; once the problem is recognised, the parties should seek prompt departure and settlement. A paid settlement exit is typically considered as the best way to address the problem, viewing the issue as more of a commercial decision. The emphasis in this perspective is on the broader (un)feasibility of the employment relationship. As with the "exit price" perspective of some managers, and the employer-initiated terminations, the specific legal grounds for termination are only a secondary issue, which may or may not correspond to the 'real' need to discontinue the relationship;

"sometimes it's bleatingly obvious to everyone that the situation is untenable - for whatever reason and it may just be that there's no real particularly justifiable legal reason but there is a very persuasive reason that, in fact more important than the legal pigeon hole that you might be able to shuffle this into". "Yeah and so often it's driven by all sorts of things outside of the strict legal employment relationship. Often"

This type of perspective effectively reframes the usual legal notion of "unjustified dismissal", where the actions of an employer are judged according to the extent to which they are justifiable, in terms of specified legal grounds. Instead, in this more pragmatic perspective, compensation is simply paid as part of a negotiated settlement at the termination of a relationship that is not functioning effectively. There are many overlaps with employer-initiated terminations, although this perspective may involve a mutual recognition of the unworkable nature of the relationship, rather than a unilateral approach.

The present study takes a neutral approach, without endorsing either philosophy. As will become evident, the data did suggest that with certain types of disputes, particularly high-level interpersonal conflicts, by the time the problem reached the stage of becoming a "dispute", there was little chance of restoration, which could be construed as supporting the more pragmatic argument. At the same time though, participants spoke of other situations, with other types of dispute where restoration did occur.

In terms of variables used here, the emphasis is not on achieving "restoration" as proposed by one particular philosophy. Instead, the more important issue is the extent to which the parties focus on issues of Relationship, and exhibit Competency in the manner in which they go about handling disputes, irrespective of which philosophy one approaches the matter from. For example, in Retail the employee brought in an external advocate to resolve difficulties in an ongoing relationship, where the employee's goal was clearly to continue the relationship and there was no evidence that the employment relationship was predestined to failure. However, the advocate utilised what was apparently his/her 'standard' approach, with very aggressive tactics that caused significant escalation and irreparably harmed the employer-employee relationship. Thus the advocate's lack of Competency and inappropriate Approach are self-evident, independent of any particular philosophy.⁴⁷

9.3.4 Variable (4) The Approach of the Other Party, and Their Representative

The parties' approaches did not exist in isolation but were partly a response to the actions of the other party. Participants frequently indicated a direct link between the actions of the other party and their own approach. An employer for example, may initially commence with a primary strategy, or combination of strategies, however as the dispute progresses and interactions occur between the two parties, the employer may significantly change their strategy. Thus, there could be a sequence of strategies. (A similar process can occur for other parties, especially employees).

This is illustrated for example in Copier, where in the pre-mediation stages, the HR Manager had a problem solving approach, however the management representatives modified their approach in response to the actions of the employee's external representative;

"the unfortunate part about all of this is that [name] chose an advocate who took an extremely aggressive approach, rather than a collaborative and reasonable approach. And we felt we were left with no alternative but to respond in kind"

Similarly, in Movers the manager reciprocated what s/he perceived as the representative's approach, in a very clear 'tit-for-tat' manner;

⁴⁷ Participants endorsing the more pragmatic philosophy cited situations such as where a new General Manager is appointed to an organisation, and consequently the level of management below this anticipate a "clean sweep" with the "new GM sort of whole ethos... this is my way and it's my way or the highway". However there is no lawful basis to be rid of those people, yet there is a recognition that their life is "going to be misery under him". Therefore, for the company which desires the departure of these people, "the only way to get it is to pay for it, because they've got no other justification" (Lawyer 1).

*"if you don't want to speak to me I don't want to speak to you"
"if you're gonna stand that hard over five cents I'm gonna do exactly the same...if you want to take that stance well I'll take exactly the same stance"*

In Fleet, as discussed earlier, at the outset of the dispute, the manager also framed his approach partly as a response to the union's approach;

"with all those on the table, the union knew that and they were playing them pretty hard. And ah, so I thought I'll play hardball back"

This escalation sequence of action and reaction, involves the party's behaviours, along with the accompanying emotional and attitudinal changes, which together significantly shape the course of the dispute. It is a crucial factor, and the precise outworking of this will be illustrated in the actual case-related sequences which follow later. As a dispute progresses, it is difficult to identify a specific initiator and responder, but rather it is better conceptualised as "conflict spiral", where the parties are involved in a circular process of ongoing action and response. At this point, it is sufficient to note this as one of the significant variables shaping a party's approach.

The process of reciprocating and responding to the other party's tactics can also work in a positive direction. When the other party employs a problem-solving approach, this permits interactions such as constructive dialogue between the parties, which can move the dispute towards resolution. As the HR Manager in Copier explained;

I think you are spot on the money. A lot of it is to do with the advocate. The guy that I spoke to today was sort of like, you know, 'can we be real, this political correctness is all stupid', and I want to be able to talk directly without you know, having it held against me later on, and vice versa. So, a lot of it is to do with that, whether you trust the other individual, and play by those rules.

Proposition (4): The approach that a party utilises will be influenced by the approach of the other party. In particular, the extent to which the other party is prepared to utilise a problem-solving approach which seeks to accommodate the interests of both parties, will determine whether one's own party uses a similar approach.

9.3.5 Variable (5) The Party's Own Decision Making Orientation

The party's own decision making "orientation", in terms of the specific set of variables that they emphasised in their own decision-making as to whether or not to contest an issue, also exerted an influence on their Approach. There was a clear and relatively consistent association between orientations and approaches. For example, an employer whose main orientation was Dominance and Rights, or Risk and Compliance or Business Costs, typically adopted more of a Contending approach. In contrast, an employer whose orientation was Relational was more likely to utilise a Problem-Solving approach.

Similarly, among employees, those whose main orientation was "getting out" or "getting fairness" were more likely to adopt a Contending/Withdrawal strategy. Those whose main orientation was "getting specific rights", or in "getting a deal" were more likely to adopt a Problem-Solving strategy

The associations between the parties' orientations, and their subsequent dispute-approaches are shown in Tables 17 and 18. It is important to note however, that as shown in Table 17 for example, the orientations of the individual employee are not the same as the overall approach of the employee side. The *overall* approach utilised in the dispute interaction, from that side, was a product of both the employee's approach and also that of the employee's representative. Hence the employee approaches shown are not necessarily the same as those which later form the overall approach of the side.

Table 17: Employee and Representative Orientation and Dispute Strategy

CASE	EMPLOYEE		EMPLOYEE REPRESENTATIVES' DISPUTE STRATEGY (Own Representative)	OVERALL DISPUTE STRATEGY * (Employee-side)
	Employee Orientation	Employee Dispute Strategy		
ALARMS	"Getting out"	CTDG - WDRW	CTDG	CTDG
COPIER	"Getting out"	CTDG - WDRW	CTDG	CTDG
GAMMA	"Getting out"	WDRW	PRB S	PRB S
REDBANK	"Getting out"	CTDG (eventually WDRW)	PRB S → CTDG	PRB S / CTDG
RETAIL	"Getting out"	CTDG - WDRW	CTDG	CTDG
WASTE	"Getting out"	CTDG	N/A	CTDG
CORG – B	"Getting fairness"	CTDG - WDRW	N/A	CTDG - WDRW
MOVERS	"Getting fairness"	CTDG (eventually WDRW)	PRB S → CTDG	PRB S / CTDG
ROAD	"Getting fairness"	CTDG (eventually WDRW)	CTDG / PRB S	CTDG
TERMINUS	"Getting fairness"	CTDG (eventually WDRW)	PRB S → CTDG	PRB S / CTDG
CORG- A	"Getting specific rights"	CTDG (specific issue)	CTDG	CTDG
NEWS	"Getting a deal"	CTDG / PRB S	PRB S	PRB S
BLUBANK	"Getting specific rights"	PRB S / CTDG (specific issue)	PRB S (CTDG)	PRB S
FLEET	"Getting specific rights"	PRB S / CTDG (specific issue)	PRB S (CTDG)	PRB S

KEY:

CTDG = Contending

PRB S = Problem-Solving

WDRW = Withdrawal

Strategies in parentheses represent a secondary strategy

* Note that this was also in response to the other party's approach

Table 18: Employer and Representative Orientation and Dispute Strategy

CASE	ORGANISATION / EMPLOYER		EXTERNAL REPRESENTATIVES' DISPUTE STRATEGY <i>(Employer Representative)</i>	OVERALL DISPUTE STRATEGY * <i>(Employer-side)</i>
	Organisation Main Orientation	Employers' Dispute Strategy		
ALARMS	WIN	CTDG	CTDG	CTDG
COPIER	COST (Area Mgr) REL (HR Mgr)	PRB S → CTDG (HR Mgr)	N/A	CTDG
GAMMA	DOM	CTDG	CTDG	CTDG
REDBANK	RISK	CTDG	N/A	CTDG
RETAIL	RISK	PRB S → CTDG (HR Advisor)	N/A	CTDG
WASTE	REL / COST	PRB S → CTDG	CTDG	PRB S → CTDG
CORG – B	REL (Local Advisor) DOM (Corporate)	PRB S / CTDG	N/A	PRB S
MOVERS	RISK	CTDG	CTDG	CTDG
ROAD	REL	PRB S → CTDG	N/A	CTDG
TERMINUS	RISK	CTDG	CTDG	CTDG
CORG- A	REL (HR Advisor) DOM (Corporate)	PRB S / CTDG	N/A	PRB S
NEWS	BUS COST	CTDG	PRB S	PRB S
BLUBANK	REL (Local Line Mgr) RISK (Corporate HR)	PRB S (R/Mgr) (CTDG)	N/A	PRB S
FLEET	WIN (Local Line Mgr) RISK / REL (Corp HR)	PRB S / CTDG	N/A	PRB S

KEY:

CTDG = Contending
PRB S = Problem-Solving
WDRW = Withdrawal

COST = Business Costs
WIN = Reactive - Win/Lose
RISK = Risk and compliance
REL = Relational
DOM = Dominance and Rights

Strategies in parentheses represent a secondary strategy

* Note that this was also in response to the other party's approach

Proposition (5): A party's Orientation, in the sense of the variables which they placed great emphasis on in decision-making, will also influence the particular dispute handling approach that is utilised by that party.

9.3.6 Variable (6) Party's Own Representative's Approach

The Approach of the party's own Representative also constituted another variable which exerts a causal influence on a party's overall approach. This is moderated however by the extent to which the representative has influence on the party, which can range from low to high levels of influence. Tables 17 and 18 also illustrate this relationship between the Representative's Approach (column three) and the side's overall Approach (column four).

The types of representative involved present slightly different scenarios for this relationship. Firstly, in terms of in-house representation, (that is, senior managers and/or HR representatives), the issues discussed earlier concerning the differing dispute-related decision making orientations from subgroups within the same organisation, was also replicated in terms of dispute strategies. For example, the Corporate HR Advisor in Fleet utilised a Problem-Solving strategy, which was in clear contrast to the Contending strategy of the local manager. The actual influence exerted by the HR Adviser in the mediation stage was quite considerable, with his/her problem-solving strategy dominating and significantly contributing to the resolution of the dispute. A similar pattern occurred in Copier, while the reverse (that is, the local managers exerting greater influence, and the corporate representatives comparatively less influence), occurred in Blubank, Corg A and Corg B.

Secondly, in terms of external representatives, the degree of influence from the representative varied considerably. At one extreme, in Movers, the external representative wielded considerable influence (high influence). The manager had limited experience, and company policy required the use of an external representative. The representative led the direction of dispute handling, with his/her role extending to "make a decision, what... you should do", and "said this would... be our stance"; the manager was unlikely to question the representative's proposals, "I trust that he has the knowledge". In News, although the core parties (employer and employee) were professional and articulate people, the external representatives on both sides had significant influence, introducing very strong problem-solving strategies. These representatives' approaches set the tone for the negotiations and mediation, leading to a prompt and mutually satisfactory resolution.

By way of comparison, in Waste, the representative exerted considerably less influence, where the manager was very experienced with his/her own clear philosophy and plans for dealing with

disputes. In that situation the employer was prepared to overrule the representative's advice in mediation, making his/her own decisions (low influence).

Associated with this was also the degree of congruence between the representatives' approaches, and those of the employer. Some employers, for example Gamma and Terminus, also had a clear philosophy and plans for dealing with disputes, and consequently made a deliberate decision to use representatives with a strategy that matched their own. This also influenced the overall approach from the employer-side, strengthening the particular approach. For example, the HR Manager in Terminus, whose own personal manner tended to be aggressive and contending, commented;

"there are times you need a rottweiler. Sometimes you need to show some real spine... [representative name] is great for this" (HR Manager, Terminus)

Among the employees and their representatives however, the situation was somewhat different. Often the external representatives took the initiative in terms of the direction and strategy for the dispute while the employee remained somewhat passive; for example, Copier, Retail (high influence). With unions however, the employees had greater opportunity for influence on the dispute handling approach, even though unions tended to use problem-solving approaches while employees frequently had elements of contending strategies among their overall approach (moderate influence).

It was also interesting to note differences between the parties in terms of the manner in which they selected their representatives. For managers, the choice was often quite significant and they tended to deliberately choose representative who either provided specific skills and knowledge that they sought, or matched their desired way of handling the dispute. In comparison, most employees tended to use less discriminate ways of locating a representative. Union members generally used the union that they already belonged to, while those who used other representatives, either lawyers or private advocates, simply either used somebody already known by a friend, or chose the person through either public sources such as using the Yellow Pages, or advertising on the Internet.

Proposition: A party's selection of dispute handling approach will be partly shaped by their representative's approach however this will depend on the extent to which that representative influences the party.

9.3.7 Variable (7) Attributions regarding other party's motivation

As discussed in terms of the decision-making processes for both employees and managers, the attributions formed regarding the other party's motivations and intent also exerted a significant influence on dispute-approaches. Where the other party was perceived as embarking on a course of action that was self-serving and focused on their interests, while disadvantaging one's own interests, this was associated with strong tendencies towards contending and consequent escalation. This variable also played a significant role in the decision to contest, rather than settle, an issue - however the effects of this can now also be seen in terms of the escalation that it produced in the dispute;

"... I object deeply, deeply to paying anybody like that a single cent because to me that is trying to take advantage and whilst we paid something out to [name] at the end of his employment with us, it really stuck in my craw because as far as I'm concerned he was using the law to his own pecuniary advantage" (Manager, Waste)

"To me it implies 'we'll try it on' – and you heard the guy at mediation – 'it'll cost you fifteen grand to take it to court' – and you know, it's just using the legal system as blackmail. And we are becoming increasingly - as an organisation – and that's really me – becoming increasingly ill-disposed towards, towards settling... We're saying if this has to go to the Court of Appeal, we don't care – we will take this guy - fundamentally our position is resolved in it, and we're not going to pay any money for it to go away." (HR Manager, Copier)

This variable also has some overlap with the nature of the issues; for example, where an employee perceived that *the reason* they were being deliberately singled out and unfairly treated was due to some apparent vindictive motive on the employer's part, this created a perception of injustice, provoking anger and contending tactics employee; (Copier, Waste, Redbank).

Proposition (7): A party's selection of dispute handling approach will be partly determined by the attributions made concerning the other party's motivation in pursuing dispute action. In particular, where the other party is perceived as acting from self-interested motives rather than the genuineness of the issue under dispute, then one's own party will be more inclined to adopt an approach where they are unwilling to compromise or concede.

9.3.8 Variable (8) Individual traits

Participants were often very clear that another significant influence on the dispute approaches, and hence the overall course of the dispute, related to particular individuals with their own personalities and traits. This sometimes included a desire for conflict and contending tactics.

For example, in Blubank both the union representative and also the company's ER Manager spoke of personality-related issues associated with specific individuals, reporting *"that [name]...he loves a fight with the union"*, and that in terms of their overall dispute, personalities (rather than personality conflicts), were an *"important point being you've got the sort of personality component which I wouldn't under-estimate"* (ER Manager)

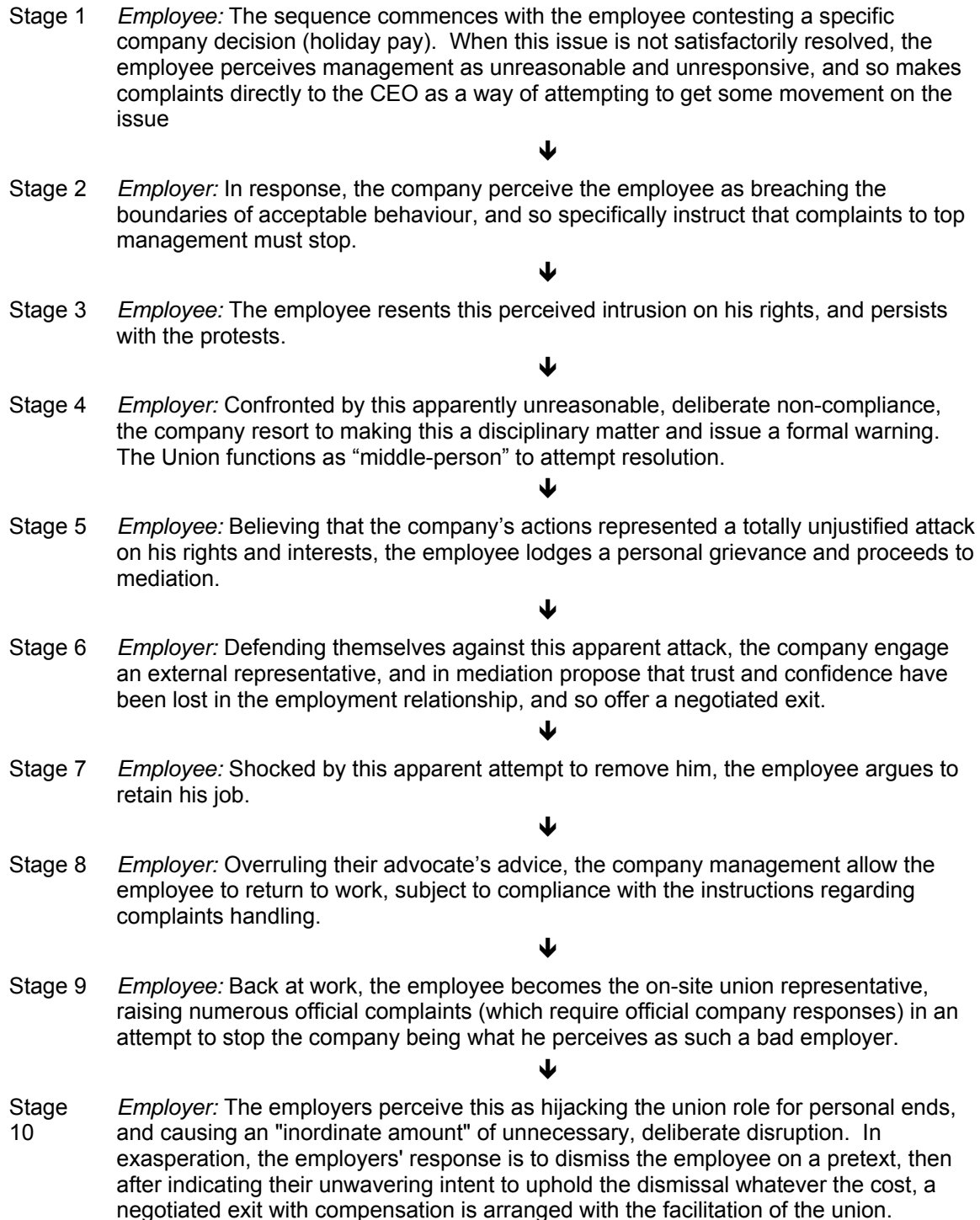
Similarly, in Fleet, the employees and union representatives consistently indicated that they perceived that much of the dispute was due to the inflexible and confrontational attitudes of the particular manager - this became even more evident when they made comparisons with other managers who had been in the same role;

"had there been another [manager title] there, we would have seen a very different scenario. We wouldn't have even been at mediation"

Proposition (8): The traits of an individual will influence their selection of dispute handling approach. In particular, when an individual is competitive or extremely focused on winning, this is likely to be associated with approaches that do not involve an emphasis on mutual problem-solving, and accommodating the other party's interests.

9.3.9 An example of Escalation and Approach - the Case of Waste

At this point, it is useful to return to the rather enigmatic case of Waste. The case has been discussed earlier, in the contexts of dispute types and employer decision-making. It is deliberately revisited here to add to the conceptual framework already developed from the case; however the analysis is now expanded to incorporate the additional factors of dispute approaches and consequent escalation. The case provides a useful illustration, as it involves multiple issues being contested and a rapid process of learning for both parties, with major escalation in the short timeframe of the dispute. It involves processes which were present in other cases, but these are illustrated more clearly in the shorter timeframe associated with Waste. The markedly differing perceptions of both employer and employee are highlighted in the following sequence, which is also shown diagrammatically in Figure 14.



WASTE

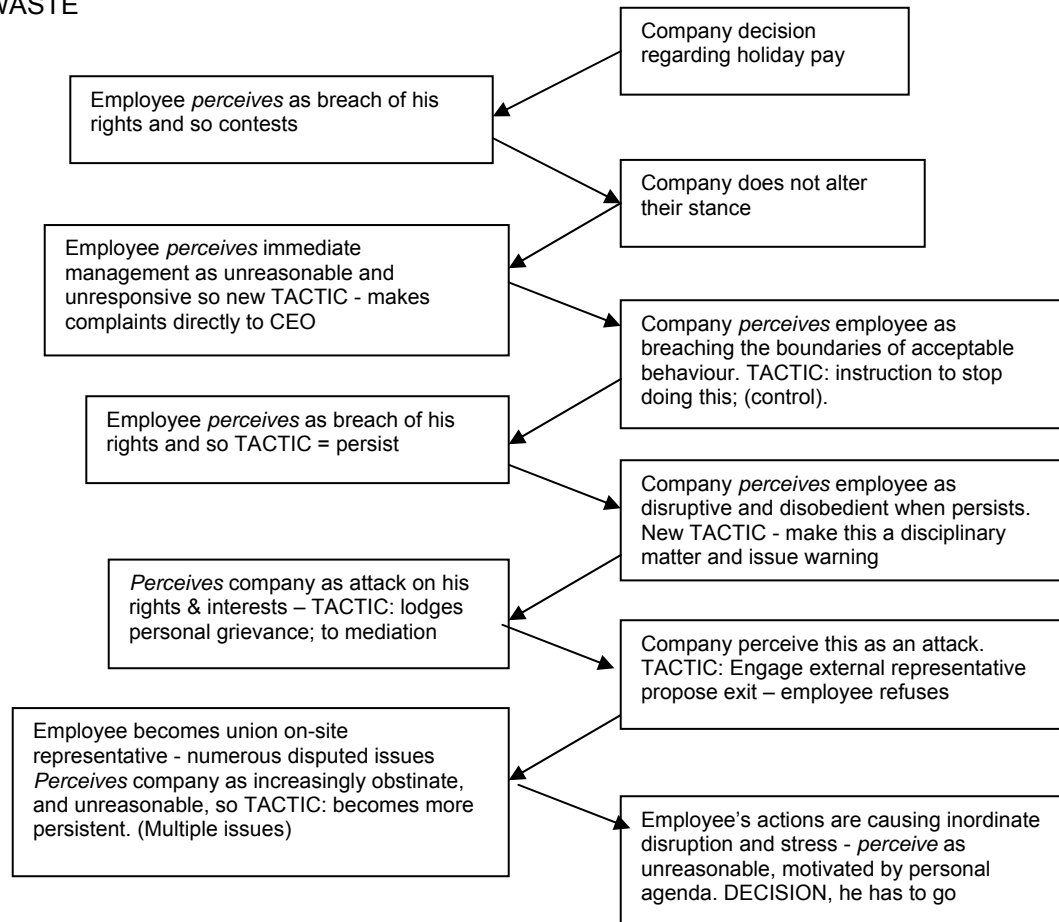


Figure 14: The Dispute Sequence in Waste

The concepts of approach and escalation explain many of the occurrences in this case and others. The case is similar to other high-intensity interpersonal conflict disputes in that it involves comparatively high escalation, however with the compressed timeframe, each step in the sequence brings a steady increase, in terms of both the intensity of the conflict, and also the tactics employed. As with Gamma, there are multiple types of escalation occurring, including the progression of levels from in-house discussions through to external mediation, as well as an increasing number of individuals, with more senior staff from the organisation, representatives for both sides, and a mediator, becoming involved. Unlike Gamma however, this particular case had both an increase in the number of issues, as well as the generalised intolerance of the other party, consistent with interpersonal conflict; once again this included the employer's determination to remove the employee, and employee's belief from that this is a "bad employer".

There is a paradox associated with this case. The case involves one of the higher levels of escalation, yet the company's General Manager has been cited as an example of a person with a high level of dispute resolution Competency. This particular manager was able to articulate very clear principles and planned approaches for dealing with employment relationship problems. This "competency" however, was not simply limited to discussing ways of handling issues - a range of sources confirmed that both this manager, and also the union representative involved, were very experienced and usually recognised for their ability to deal with disputes in ways that mutually benefited both parties, with low levels of escalation. So why did the case escalate so badly?

Part of the explanation may lie in the fact that this specific manager did not become directly involved until the case had already significantly escalated. The employee recalled little of this manager's involvement, focusing his discussion on other members of the company's management. More important though, are perhaps the employee's own contributions in terms of factors such as dispute handling competency and individual traits, which shaped his overall approach. The employee repeatedly indicated a high concern for maintaining relationships, and it would seem that his genuine intention was to resolve the dispute. The employee apparently perceived himself as having a high level of dispute handling competency, largely based on some prior experience in on-site elected union roles. In practice though, the outcomes produced did not match his intentions, with high levels of escalation rather than resolution. In general, he demonstrated a low awareness of the potential consequences of his actions, and the dynamics of dispute handling.

This employee, along with others in the study, acted in ways which led to what could be termed "unintended consequences". This is quite a significant phenomenon which occurred where a party (usually an employee) apparently had high concern for relationships (Concern), with an intention to amicably resolve the dispute (usually including an expectation that the employment relationship may be continued). Importantly though, the employee lacked the dispute handling competency to actually achieve this (Competency) and instead their actions led to escalation and further deterioration of the situation. So, while the employee may have an *expectation* that their actions will constitute a move towards resolution, in practice they are very surprised to discover that in fact the reverse occurs and typically the conflict escalates.

In terms of individual traits, other parties described the employee in Waste as being rather unique, particularly with what he himself described as his persistent and "dogmatic" manner. He was referred to as "tilting at windmills", being "one-of-a-kind", and comparisons were made with another conflict-provoking individual. Considering the union to be less aggressive than he would have wanted, and also believing in his own abilities, the employee chose to bypass the union and instead handle the dispute himself, in his own way. The tactics utilised with regard to a specific disputed issue, were not heavy tactics such as aggression. Instead though, the problems stemmed from the

sheer volume of issues disputed by the employee, and his tactical move of using issues that were time-intensive for the company, for example requiring official responses under health and safety laws.

The General Manager's problem-solving strategy was not reciprocated by the employee, who instead took a strongly contending approach. By the time that the employee encountered the General Manager, he had already formed the impression that the employing company was bad and unjust, and so that apparently had already shaped the employee's attitude towards the interactions. Consequently, the employee was not responsive to attempts at dialogue, even when this was what he was seeking. Given the lack of mutuality between the employer's problem-solving approach, and the employee's very strongly contending approach, the manager resorted to a contending strategy also. Overall then, the case could be classified in terms of Interaction Type as one that became "Mutual Contending, High Escalation".

9.4 The approaches, and interaction types, which result

9.4.1 Approaches and Interaction Types Illustrated in Cases

Table 19 shows the dispute handling Approaches that resulted for each of the parties in the cases, along with the Disputant Interaction Type that was produced on the interaction of the two approaches. Of particular interest are the changes of approaches where parties commence with one strategy but subsequently move to another strategy. Cases such as Retail illustrate situations where one-party moved through a sequence of approaches, with the HR Advisor who mainly determined the overall approach of the employer-side, initially commencing from a problem-solving approach. When confronted by the strongly contending approach of the employee's representative however, the HR Advisor moved to a more contending-focused approach herself. As a consequence the overall interaction type between the parties became one dominated by contending. (The precise dynamics involved in this will be explored further in the following sections). At the same time, many employees attempted problem-solving, or a contending strategies during the disputes, however their final way of ending the conflict was through the strategy of withdrawal.

The predominance of contending-based interactions in the overall dispute Interaction Types is very evident, with the main exceptions being in the cases of News, Corg A, Blubank and Fleet. The actual dynamics associated with interaction of the two sides will be explored in greater detail in the analyses of the dispute sequences which follow in subsequent sections.

Table 19: Overall dispute handling approaches for parties

Case	Approach Employee-side	Approach Employee-side	Interaction Type (Summary)
ALARMS	<i>PRB S</i> → CTDG (eventually WDRW)	CTDG	CTDG
COPIER	CTDG (eventually WDRW)	<i>PRB S</i> → CTDG	CTDG
GAMMA	<i>PRB S</i> → CTDG (eventually WDRW)	CTDG	CTDG
REDBANK	<i>PRB S</i> → CTDG (eventually WDRW)	CTDG	CTDG
RETAIL	CTDG (eventually WDRW)	<i>PRB S</i> → CTDG	CTDG
WASTE	CTDG	<i>PRB S</i> → CTDG	CTDG
ROAD	CTDG (eventually WDRW)	<i>PRB S</i> → CTDG	CTDG
CORG – B	CTDG (eventually WDRW)	<i>PRB S</i> → CTDG	CTDG
MOVERS	<i>PRB S</i> → CTDG (eventually WDRW)	CTDG	CTDG
TERMINUS	<i>PRB S</i> → CTDG (eventually WDRW)	CTDG	CTDG
NEWS	PRB S	PRB S	PRB S
CORG- A	PRB S (<i>CTDG partial</i>)	PRB S (<i>CTDG partial</i>)	PRB S (<i>CTDG partial</i>)
BLUBANK	PRB S	PRB S	PRB S
FLEET	PRB S	PRB S	PRB S

KEY:
CTDG = Contending
PRB S = Problem-Solving
WDRW = Withdrawal

9.5 Higher level variable - Power

The variables that had been identified as influencing the approach were analysed in order to identify higher-level variables. As suggested earlier, there is some commonality between the decision-making variables, and the variables that shaped a party's approach. Again, Power emerged as the most significant variable, serving as an overarching, high-level construct, which accounted for many of the variables contributing to a party's approach (how to go about disputing). This was similar to the role that Power plays in the decision-making of each of the parties (regarding whether or not to contest a matter). For example, the variable "significance of issues" is closely related to power; the various sub-dimensions of this, such as principle & precedent, protection of perceived rights, the strategic significance issues, and the political significance, are all exemplars of power, in terms of maintaining and defending a party's own interests.

This role of Power, as a significant variable influencing a party's approach, has some similarities with the model of power proposed by Kim et al. (2005), discussed earlier. That particular model frames Perceived Power as having a causal relationship, determining the selection of "tactics" (to use their terminology) in the use of power. Therefore the interface between the inductively derived model, and that of Kim et al. (2005) is explored in more detail.

9.6 Comparison with the model of Kim et al. (2005)

The model presented in this chapter concerning the dispute Interaction Type, and particularly the Approaches, differs in several ways from the "dynamic model of negotiator power" of Kim et al. (2005), presented in the earlier chapter. There is a difference in terminology, with the term "tactics" used by Kim et al. (2005) being broader, referring to the wider matter of strategies rather than the narrow definition of the term "tactics" used by Pruitt and Kim (2004). More significantly though, the model of Kim et al. (2005) incorporates "tactics" as one of the four 'components' of power, rather than as a separate construct. In addition, Kim et al. (2005) utilise only two broad categories of "tactics", being hostile, and conciliatory, rather than multiple types of approaches or strategies proposed in this chapter.

These issues raise a central question concerning the relationship between the concepts of Approach and Power. Pruitt and Kim (2004) for example, refer to the links between relative power and strategy, with the tendency of parties with higher relative power to use contentious tactics. This is similar to the Relative Power proposition of Lawler (1992) concerning situations of unequal

power, which predicts that these will produce more hostility, compared to relationships with equal power. Pruitt and Kim (2004) however, caution that the links with power are not straightforward, and most significantly, do not treat their "strategies"(Approach) as a component of Power (pp.51-52).

There are clearly links between Power and Approach, especially since Approach (or "tactics") involves, to some extent, the use of power. The Relative Power proposition involves a causal link, with relative power influencing the approach (tactics) utilised by a specific party, and subsequently, those actions then affect the resulting power relationship. Working in the opposite direction, the present research demonstrates that a party (or their representative) which is able to select an appropriate Approach may be able to produce better outcomes, thus demonstrating greater power to influence the situation. However, these factors do not automatically imply that Approach forms a subordinate category which can be subsumed within Power as a higher-order category. Instead, it is proposed that there are several reasons why Approach should be considered a distinct and separate construct in a model of employment relationship problems.

The first issue concerns the classifications used and representation of the phenomena. While parsimonious, the broad classification from Lawler (1992), and subsequently adopted by Kim et al. (2005), using only the two categories of 'hostile' and 'conciliatory' does not accurately convey the distinctions in the types of approaches used by the parties; it over-simplifies a more complex matter. Instead, the four strategies proposed by Pruitt and Kim (2004) constitute a more accurate representation of the phenomena, as well as having the virtue of utilising a widely recognised classification system.

The second issue involves the complexity of the interactions involved. The model proposed by Kim et al. (2005) is a more one-dimensional perspective which tends to present the approach of one-party in a linear, one-sided manner. In reality, there are two parties each of which has their own approach; those two approaches combine to produce an interaction with a significant set of dynamics, and this can result in one overall dominant Approach, determining the overall outcome. These aspects are largely absent from the model of Kim et al. (2005), which only acknowledges that there are changes in relative power after each cycle of power use. Furthermore, Pruitt and Kim (2004) also propose that parties have multiple strategies, using more than one strategy, and with strategies changing over time; these features were evidenced in the present research.

Furthermore, the model of Kim et al. (2005) tends to be based around the link between a single individual who develops perceptions (regarding Power), and then on this basis makes their choice of tactics (Approach). Employment relationship problems however, seem to constitute a different type of situation. In employment relationship problems, as a dispute sequence progresses there is

usually not such a direct link between a specific individual and the Approach adopted by either the employee-side or the employer-side. Instead, as discussed in earlier chapters, there are typically multiple individuals, both within organisations and external agents, who become involved in an employment dispute. It is those extra individuals, rather than the original employer and employee at the outset of the dispute, who typically have a major determining effect on the Approach used by each side. The representatives who become involved, for example, tend to act in their own style and according to their own agenda, with an Approach that they themselves choose, and this may have little direct linkage with the relative power that the original employee perceives themselves as having⁴⁸. Therefore, the selection of Approach is not directly linked to the individual employee or manager themselves, in a manner consistent with Kim et al. (2005).

Overall then, it would seem that, in the context of employment relationship problems, Approach does form a separate construct, which is distinct from Power. This does not however, deny the fact that the two concepts are closely inter-related.

This finding also raises questions as to whether these points of difference indicate a shortcoming in the model of Kim et al. (2005), or alternatively whether this simply reflects a the difference between the fields of bargaining and employment relationships. It is possible that, while a model derived from bargaining situations may have considerable relevance for employment relationship problems, it may also have some aspects that are not fully transferable. In describing their model, Kim et al. (2005) at times explicitly narrow their comments to the field of bargaining, mentioning for example, that "*restricting our analysis to negotiation* we have focused on cases where the focal parties are initiating discrete strategic acts, for example making offers, issuing threats, and selectively disclosing information" (emphasis added) (Kim et al., 2005, p.820). Although there are many common elements shared by bargaining and employment relationship problems, with both involving a similar series of action-sequences as parties engage with each other and attempt to further their own interests, but the fields are not identical.

Is also possible that methodological issues could contribute to the difference between the model of Kim et al. (2005) and the present research associated, with the former being based around experimental simulations, whereas the present research derives from fieldwork involving real situations. Combining these two types of differences then (methodological and the differing fields), 'real-life' employment relationship problems are potentially not the same as the simplified two-party, dyadic bargaining in laboratory situations. The 'real-life' phenomena of employment relationship problems progressively involve more and more individuals, many of whom are increasingly remote from the typical employer and manager at the outset of a dispute. In terms of the dynamics, bargaining inherently involves an explicit quid pro quo exchange. In contrast, employment disputes essentially consist of an employee

⁴⁸ It is possible that the Approach adopted by an external representative may be related to their perception of their own power, however this not sufficient information in the present data to assess this.

raising a complaint and seeking resolution of perceived problem, without explicitly offering any “consideration” (in the contractual sense of that word) or exchange. Implicitly, and sometimes explicitly, in employment disputes, one of the main dynamics is the threat of the use of legal remedies. In other words, it is the use of legal power, rather than a reciprocal exchange.

Associated with this, there is often less dialogue occurring in most employment relationship problems, compared to an explicit bargaining situation. While negotiation involves situations of “explicit” bargaining, employment relationship problems could even be construed as involving significant components of “tacit” bargaining (Lawler, 1992), which is characterised by features such as highly conflictual contexts, organisational contexts where bargaining is not socially legitimate, and with parties often bargaining ‘from a distance’, without open lines of communication. These types of differences could therefore mean that the models that are relevant for each field will have elements that are dissimilar.

Other related areas of difference between the two fields, may stem from the possibility that the phases within a bargaining sequence are more homogenous, compared to employment relationship problems. Each phase or iteration of an employment relationship problem may represent a markedly different situation from an earlier phase; for example, the move from in-house employer: employee interactions, to the involvement of an external representative can involve very different dynamics, and similarly, the subsequent move to mediation again represents yet another different type of situation. In addition, bargaining may not contain such clear outcomes at the end of each phase, compared to the very overt and final outcomes that are reached at the end of each stage of an employment dispute, thus accounting for the greater emphasis placed on outcomes in the present research. Differences such as these could therefore explain the apparent divergence between the model inductively derived in the present research, compared to that of Kim et al. (2005).

In summary then, while the bargaining literature may have considerable relevance to the field of employment relationship problems, the two areas are not necessarily totally synonymous. The model from Kim et al. (2005) contributes to, and strongly supports, the theory developed from the present research. There are some points of divergence however and these may well result from differences between the two fields, with aspects that do not generalise from one area to another.

9.7 Conclusion

Overall then, Approach constitutes a distinct and separate concept from Power. Approach influences the type of Dispute Interaction that occurs, and this determines the extent to which escalation, or moves towards resolution occur. Dispute Interaction therefore represents a third core construct in this model of employment relationship problems. Having outlined these component elements, their

functioning in the continuing interaction of the parties in the dispute will be explored in detail, in the following chapter.

Chapter 10: Interaction Sequences

10.1.1 Introduction

Much of the focus up to this point has been on dispute handling approaches, with a model proposed concerning the variables shaping a party's approach. The focus now shifts to the overall interaction between the parties, and the functioning of the core construct of the dispute 'Interaction Type'. Three 'categories' of interaction, representing distinct patterns of dispute sequences, emerge resulting from the types of interactions which result from the varying approaches of the parties. The following section will analyse each of those sequences, firstly in terms of the Approaches involved and the variables contributing to those Approaches, as well as relating this to the other main constructs, of Power and Dispute Type.

10.2 Major Category (1): Non-Mutual Initial Approaches Leading to Overall Contending

The first two sequences involve interactions where the parties to the dispute have *differing* initial approaches. One party enters the dispute with what is predominantly a problem-solving approach, while in contrast, the other party utilises what is largely a contending approach.

A key principle applying in this type of situation is the incompatibility of differing approaches. Problem-solving involves high levels of concern for both one's own interests, as well as the interests of the other party. For problem solving to be effective, however it generally requires mutuality, with both parties considering the other's interests; maintaining their own interests while also attempting to reconcile and accommodate the other party's interests. Contending, in comparison, focuses solely on one's own interests and uses a range of tactics designed to dominate the other party. In this regard, it is largely incompatible with problem-solving.

If only one party attempts a problem-solving strategy, while the other party utilises a contending strategy, then as a consequence, mutual problem-solving is not feasible, and so the party utilising the problem-solving approach *changes* their approach to respond to the contending approach of the other party. This contingency-based change in approach from one party leads to the overall interaction becoming predominantly based around contending. There are two main variants of this, according to which party makes the transition from problem solving to contending.

10.2.1 Variant (a): Problem-Solving Employee, and Contending Employer / Employer's Representative ("the brick wall employer combination")

The first variant involves the employer-side as the party utilising a strong contending approach, while the employee-side initially enters into the interaction from more of a problem-solving approach. This interaction sequence has slightly differing forms according to the dispute type.

10.2.1.1 Sub-type (i): Dispute Type Company Decision – Cumulative (CD-C)

In a 'company decision – cumulative' type of dispute (CD-C), the interaction sequence was known as the "Brick Wall" employer combination. That is, where the employer and or their representative has little or no concern for the other party's interests, nor for maintaining relationships, and consequently utilise aggressive, contending tactics which tend to dominate the overall interaction sequence of the dispute. The overview of the sequence is shown in Figure 15;

Stage 1	Dispute emerges (for CD-C cases, this is a part of a longer sequence of disputes)
	↓
Stage 2	IPC employees attempt in-house resolution, but without success CD-C employees bypass attempts at in-house resolution on their own, and instead go directly to a third-party; external third-party (employee's) enters the dispute
	↓
Stage 3	employers respond by engaging their own third-party (usually external)
	↓
Stage 4	Pre-mediation interaction; Discussions between employee representative and employers, but employers do not concede in full (or at all in some cases), to the employee's requests
	↓
Stage 5	Dispute is unresolved - mediation is proposed
	↓
Stage 6	mediation – contending approach from the employer / employer's representative (often with significant aggression tactics from the employer's representative); partial compromise settlement achieved, although not resolving the "real" issues associated with the long-term decline in relationship mediation process is perceived as largely effective, though not matching the parties preferences
	↓
Stage 7	employment relationship either terminates at mediation, or continues temporarily (until employee locates new job), but underlying issues unresolved Dispute ends, (simply due to the withdrawal of the employee party)

Figure 15: Dispute sequence for Cases Movers, Terminus

This interaction sequence can be then analysed in terms of the specific variables that influence the parties' overall approaches, as well as in terms of the power dimensions involved in the interaction.

This is shown in Table 20 below, with specific reference to the CD-C cases:

Table 20: Approach-related variables - Movers, Terminus

APPROACH RELATED VARIABLES	
Relationships:	
Employee-representative	External, ongoing relationship (Nature), High concern for relationships (Concern)
Employer representative	External, no significant ongoing relations with employee (Nature), Low relationship-concern (Concern)
Employer	Low relationship-concern (Concern); comparatively anti-union, informal protocols only
Issues	
Employees	Important interests (lose/retain job), justice, equity and principles
Employers	Principle, precedent, fairness, autonomy
Attributions	
By Employees	As dispute progresses, increasingly move towards a view that employers either engaged in personalised attack, or untrustworthy / unfair
By Employers	Employees motives self serving, or ill-informed / misguided, (cases lacking merit)
Dispute handling competency:	
Employees	Prior experience; medium-to-longer term relationship decline and other disputes bypass attempts at in-house intervention and resolution
Employee representative	Experienced and able to move from a problem-solving approach to have more contending approach, planning approaches to match the needs of the situation
Employers representatives	Low / limited. Significant experience, but reported as consistently only using one particular style (strongly aggressive)
Orientations	
Employees	Getting fairness (Getting out)
Employers	Risk
Approaches	
Employees	Contending; based on previous experiences, adopt a contending approach with this employer
Employee representative	Problem-solving, but changes to Contending in response to employer-side's approach
Employers representatives	Strongly Contending, aggressive tactics
Influence (own side's approach)	Employers representatives = High
Escalation (overall)	High, primarily due to the employers and their representatives' approaches. Increased intensity, escalates to external mediation (perceived as a higher level), additional parties become involved, multiple issues are disputed (longer term)
POWER	
Power - Employee	Organisational: low, no perceived in-house resolution options, low conflict legitimacy Individual: low, few contacts or resources, not senior positions External: low – union has limited influence on organisation

SUMMARY: APPROACH RELATED VARIABLES -			
	Employees	Employee-representative	Employer / representative (HR staff)
Relationships:	Ongoing	External, Ongoing	External, Short-term
(a) Nature			
(b) Concern	Moderate	High	Low
Issues	Interests (job), justice, equity and principles	-	Principle, precedent, justice
Dispute Competency	Low	High	Low
Orientation	Getting fairness (getting out)	-	Risk
Approaches	Contending	Problem-solving → contending	Contending (high aggression in movers, terminus & gamble)

Influence (own side's approach)	-	High	High
Escalation (overall)	High		
POWER			
Power - Employee	Individual: low Organisational: low External: low	-	-

10.2.1.2 Sub-type (ii): Dispute Type Interpersonal Conflict (IPC)

Case: Gamble

Interpersonal conflict cases in this category exhibit slight variations on this pattern, but the differences are comparatively minor.

There are several cases of interpersonal conflict (high intensity, critical relationship, that is IPC – H-C);

- (a) The first is that of **Gamble**, which closely mirrors the CD-C case
- (b) **Redbank** also involves interpersonal conflict (IPC) but differs in that there is no external representative working for the employer, rather the organisation is represented by HR and senior management. This case also involved more moderate tactics from the employer-side, compared to the aggressive tactics in Movers, Terminus, and Gamble.
- (c) **Alarms** also represents an interpersonal conflict case; the main difference is that employer's tactics involve in a high level of duplicity, seeking to "win" and force the employee to leave through trickery, rather than outright aggression.

A comparison identifies the following areas of minor variance associated with the dispute types within this broader category;

- The interpersonal conflict, (high intensity, critical relationship; IPC - Hi) disputes involve sudden, rapid decline in the employment relationship, rather than the longer timeframe of CD – C disputes,
- in both CD-C and IPC disputes, the important interests at stake for the employee include the major question of whether they lose or retain their job (entirely) – however with the IPC, employees also had the added issue of their own security (due to the interpersonal issues which include the

perception of being personally victimised)

- unlike the CD-C employees, the IPC employees do not have prior experience, and so initially attempt in-house resolution, however this proves unsuccessful
- while the primary orientation of employees in CD-C disputes is “getting fairness”, the orientation in IPC cases is “getting out”; however both types utilise the same common approach which is a combination of contending and withdrawal, (for the CD-C employees and some of the IPC employees, the withdrawal occurs slightly later in the process)
- with CD-C dispute sequences, escalation (over the longer term) includes an increasing number of disputed issues, whereas with the IPC escalation includes a general intolerance the other side

10.2.1.3 The common pattern

While there are slight variations according to dispute type, there remains a very clearly evident pattern shared across the cases in this category of dispute sequence. Overall, all the cases exhibit a common pattern – some of the most obvious aspects that it is characterised by include;

(1) Approach: In terms of the variables influencing Approach, the most marked are:

- Relationship concern: there is evidence of low relationship Concern on the part of the employer and employer’s representative; (in contrast, the parties on the employee-side generally exhibit high concern)⁴⁹
- Competency: the employers and their representatives appear to practice comparatively low competency, based on the fact that they were reported to consistently use the same aggressive contending tactics across virtually all situations. For example, other participants were able to outline the ‘standard’, predictable pattern that the employer’s representative in Movers consistently followed, even though they were not present at the mediation for this particular dispute.
- The Issues, Attributions and Orientations were also of a variety which contributed to the escalation. Although there were variations of these according to the dispute type, they led to the same type of approach.
- These variables together result in a contending approach from the employer and employer’s representative, which produces significant escalation of the dispute sequence

⁴⁹ While the cases varied in terms of the nature of their own relationship (Nature), the more important dimension in this context proved to be their concern for relationships (Concern)

- (2) Interaction: the employee-side engages in a problem-solving approach, however this is not matched by the employer-side who instead utilise a strong contending approach; consequently the employee-side responds to this contingency by also shifting to more of a contending approach.

The dispute then becomes one where both parties engage in contending approaches, with consequent escalation and lack of moves towards actually resolving the underlying problems – the dispute only “ends” through one party completely withdrawing from the dispute

Overall then, the dispute can be classed as ‘mutually contending, with high escalation’

- (3) Although the topic of Power will be discussed in more detail later, it is worthwhile noting at this point that the employees in this category all have comparatively low power

Across both dispute types, cases shared a common status with regards to the variable of attributions. Consistently, the employers attribute the employee’s actions to either what were perceived as rather unworthy, self-serving, or misguided/ill-informed, motives. On the employee-side, the employees and/or their representatives may commence by being open-minded with regards to the employers motives. However, as the dispute progresses, with the employer-side demonstrating a contending approach and reluctance to acknowledge the employee’s interests, the employee-side parties tend to increasingly attribute the employer’s actions to either the employers’ ongoing generalised injustice towards employees, or a campaign against them (the employee) personally. All of these perspectives had high potential for escalating the conflict.

Although variations did exist around the common pattern, particularly in terms of the variables associated with Dispute Type, such as Issues, Orientations, and sub-elements of Competency, the overall effect was still the same in terms of the approach that resulted. The differences in terms of variables such as attributions and orientations will become more evident when compared to the final type of dispute sequence, involving mutual problem-solving, with the forms that these variables in that particular sequence.

10.2.2 Variant (b): Problem Solving Employer, and Contending Employee / Employees Representative; (the “stick it to them” employee-side approach)

In this second variant, once again, interactions involve parties which have *differing* initial approaches. One party enters the dispute with what is predominantly a problem-solving approach, while in contrast, the other party utilises what is largely a contending approach. The difference in this variant however, is that the roles are reversed with the employee-side utilising a strong contending approach, while the employer-side initially enters into the interaction from more of a problem-solving approach. The employee and/or their representative either has little concern for the relationships and other party's interests, or lacks the competency to implement a strategy which will achieve this, and consequently utilise contending tactics which escalate the dispute. The interaction sequence was known as the "stick it to them" employee style, where the employee and/or their representative utilise aggressive, contending tactics which tend to dominate the overall dispute.

Again, this interaction sequence also has slightly differing forms according to the dispute type.

10.2.2.1 Sub-type (i): Dispute type Interpersonal Conflict (IPC)

Typical Cases: Copier and Retail

In an interpersonal conflict (high intensity, critical relationship, IPC - Hi) dispute, the employee and/or their representative either has little concern for the relationships and other party's interests, or lacks the competency to implement a strategy which will achieve this, and consequently utilise contending tactics which escalate the dispute. The overview of the sequence is shown in Figure 16, and the accompanying approach-related variables are shown in Table 21.

Stage 1	Dispute emerges (CD-C cases this is as part of a longer term dispute sequence)
	↓
Stage 2	employees hopeful of in-house resolution (via in-house third-party, taking the dispute to higher levels within the organisation), and may attempt this - but without success
	↓
Stage 3	employees resort to seeking the assistance of an external third-party; (variant: proceed on their own) external third-party enters
	↓
Stage 4	Pre-mediation interaction; Employee or their external representative is extremely aggressive – includes on-site meetings (retail), and also written correspondence (copier), e.g. <i>“he had bullied his way through the whole meeting” (Retail)</i>
	↓
Stage 5	employers respond with heavier, more aggressive tactics; e.g. veiled threats “bring it on” (Retail), perceiving “no alternative but to respond in kind”, backing-off and preparing for legal action at mediation (copier)
	↓
Stage 6	contact between the parties stops, and there is no dialogue
	↓
Stage 7	mediation - significant aggression by employee's representative; mediation process is perceived as inadequate with little opportunity to explore the real issues – little achieved with regards to the “real issues”
	↓
Stage 8	employment relationship terminated at the mediation (exit) dispute ends

Figure 16: Dispute sequence for Cases Copier and Retail

Table 21: Approach-related variables - Copier and Retail

APPROACH RELATED VARIABLES	
Relationships:	
Employee-representative	External, no ongoing relationship (Nature), little reference to concern for relationships (Concern)
Employer representative (HR)	Internal, ongoing relations with employer & employee (Nature), discuss and demonstrate relationship-concern (Concern)
Issues	
Employees	Important interests (security, lose/retain job, respect), justice and equity
Employers	Lack of information - employee representatives never made issues clear; but underlying this, important interests, principle and precedent,
Attributions	
By Employees	Employers seen as either engaged in personalised attack, or untrustworthy / unfair
By Employers	As dispute progresses, increasingly move towards a view that employee-side motives self serving, or ill-informed / misguided
Dispute handling competency:	
Employees	Little prior experience – hope for in-house third-party intervention and resolution Unintended consequences – engage external agent not realising effects choice of representative without any real assessment of representatives' abilities
Employee representative	Low, reported as consistently only using one particular style (strongly aggressive)
Employers representatives (HR)	Significant experience – intervened in mediation where they perceived mediator not addressing matters appropriately - however involvement very limited, only on a short term basis for mediation
Orientations	
Employees	Getting out
Employers	Cost / Relational
Approaches	
Employees	Contending-Withdrawal; when Retail employee is provoked by the manager's actions becomes Contending
Employee representative	strongly Contending with high levels of aggression
Employers representatives (HR)	begin as Problem-Solving but confronted by employee-representatives' aggression becomes more Contending
Influence (own side's approach)	Employee's representatives = High
Escalation (overall)	High, primarily due to the employee-representatives' approach. Additional parties become involved, interpersonal conflict affects the overall relationship, from the employees perspective there is a generalised intolerance of the other party
POWER	
Power – Employee	Organisational: low, no perceived in-house resolution options, low conflict legitimacy Individual: low, few contacts or resources, not senior positions External: low, use only advocate with little influence on organisation

SUMMARY: APPROACH RELATED VARIABLES			
	Employees	Employee-representative	Employer / representative (HR staff)
Relationships:			
(a) Nature	Ongoing	External, Short term	Internal, Short –term / ongoing
(b) Concern	Moderate	Low	Moderate - high
Issues	Important interests, (job), security, justice	-	justice, principles
Dispute Competency	low	Low	high
Orientation	Getting out	-	Cost / Relate
Approaches	Contending-withdrawal	Contending (high aggression)	Problem-solving → contending

Influence (own side's approach)	-	High	Low
Escalation (overall)	High		
POWER			
Power - Employee	Individual: low Organisational: low External: low	-	-

Two other interpersonal conflict (IPC) cases conformed to this same type of pattern. As these illustrate other important point, they are outlined briefly.

Waste contained a number of minor variations. For example, the employee did not involve a representative, but was self-represented so the escalation resulted from the employee's own actions. The employee's approach was almost exclusively contending, but rather than using high aggression as in Copier and Retail, the escalation took the form of the number of issues under contention, and the employee's tactics of creating multiple complaints and disputes. In terms of relationship, there were two very different relationships which operated in parallel and formed a distinct contrast. The company had a very positive relationship with the union, however in comparison the employee himself had a very poor relationship with the company, which was shaped by his own escalation and aggravation. The employee's behaviour also affected his relationship with the union, while he was acting as the union's official, causing considerable strife for both union and employer, as well as potentially jeopardising the relationship between the employer and the union.

The underlying pattern was very similar pattern though, with the strongly contending approach from the employee's side dominating the overall dispute sequence. This led the employers' side, who would normally have more of a problem-solving approach, to change to a similarly contending approach, with consequent escalation and the eventual demise of the employment relationship.

Where, as mentioned previously, the employee in Waste experienced "*unintended consequences*" as a result of his own actions, the employees in Retail and Copier also experienced "unintended consequences", but in their case this was from introducing an external representative into the dispute. These employees also hoped (somewhat naïvely), that introducing an external representative would evoke a positive response from other parts of the employing organisations and lead to resolution of the problem. Instead, the act of introducing an external representative, coupled with the actions of that representative, produced the opposite effect, with dialogue ceasing and the organisation reverting to a negative, defensive stance, so that the dispute escalated rather than moving towards resolution.

The case of Road differed slightly in terms of the dispute type, being a low intensity interpersonal conflict (rather than high intensity as the others were), however it followed the same underlying pattern.

One particularly noteworthy aspect of this case was that the contending approach was largely from the on-site union representative. In terms of relationship, although there was an ongoing relationship between the union and the employer (unlike the short term involvement of an external representative in retail and copier), the relationship between this individual and the organisation's management was perceived as particularly negative. Consistent with the pattern of this overall category, the union representative in Road either lacked concern (low Concern) about relationships, or had a low awareness of the consequences of his actions (low Competency). His tactics were very similar to Waste, including creating a large number of complaints and disputes, which negatively affected the relationship between the union and the employer. While the employer parties (Area Manager and ER Manager) would normally operate from a problem-solving approach, their approach altered when dealing with this specific individual, shifting to a similar contending approach, to match the union representative's own style.

10.2.2.2 Sub-type (ii): Dispute Type Company Decision – Cumulative (CD-C)

Corg B also exhibited a similar pattern. As with Waste, the employee was self-represented, with the contending approach and escalation resulting largely from the employee's own actions, rather than that of an external representative. Corg B was a "company dispute – cumulative" (CD-C), and so once again there were similar areas of minor variance were associated with the dispute types, as noted in the first category, including;

- The differing timeframes, with more rapid relationship change in the interpersonal conflict, (high intensity, critical relationship; IPC - Hi), compared to the longer timeframe of the low intensity IPC, and CD – C disputes
- The difference in terms of prior experience, with the employee in the CD-C dispute having some prior experience of disputes within the same organisation, unlike the IPC employees
- The differing orientations of the employees; the CD-C employee's orientation was largely focused on "getting fairness" (although the relationship had deteriorated to such an extent, and was in its final stages, that "getting out" was also a significant part) – the dispute approaches still centred around combinations of Contending/Withdrawal
- The nature of the escalation, with the escalation, (over the longer term) in the CD-C dispute sequences including an increasing number of disputed issues, whereas with the IPC disputes included a general intolerance the other side

10.2.2.3 The common pattern

Overall then, aside from these minor variations, once again there is a distinct, common pattern among these four cases – some of the most obvious aspects that it is characterised by include;

- (1) Approach: In terms of the variables influencing Approach, the most marked are:
 - Relationship concern: there is evidence of low relationship Concern, but this is restricted to the external employee-representative on the part of the employer and employer's representative; (in contrast, the parties on the employee-side generally exhibit high concern)
 - Competency: the employees and/or their representatives appear to have comparatively low competency; in all cases the employees appeared to clearly desire to retain their employment (high Concern), yet the great irony is that they consistently make choices or utilise tactics which result in significant escalation of the disputes.
 - These variables together produced a contending approach from the employee and/or their representative, which produces significant escalation of the dispute sequence
- (2) Interaction: while the employer-side seeks to engage in a problem-solving approach, this is not matched by the employee and/or their representative who instead utilise a strong contending approach; consequently the employer-side respond to this contingency by moving to more of a contending approach also

The dispute then becomes one where both parties engage in contending approaches, with consequent escalation and lack of moves towards actually resolving the underlying problems – the dispute only “ends” through one party completely withdrawing from the dispute; (in Road, the details of this departure are less clear, occurring as a redundancy)

Overall then, the dispute can be classed as ‘mutually contending, with high escalation’

- (3) Once again, it is worth noting that the employees in this category also have comparatively low power

Overall, a distinguishing feature of this sequence is that the employee, and / or employee's representative, either has little concern for the relationships and other party's interests, or lacks the competency to implement a strategy which will achieve this, and consequently the employee side utilises predominantly contending tactics which escalate the dispute, despite the attempted problem-solving approaches from the in-house representatives (HR staff) from the employers.

Once again, there are variations around the common pattern for individual cases within the category,

particularly in terms of the variables associated with Dispute Type, such as Issues, Orientations, and sub-elements such as experience of the employees, and the precise nature of the escalation. However, the overall effect is the same in terms of the approach that results.

In terms of “attributions”, across both dispute types, cases followed a common trend, however this time the roles were reversed from what occurred where the employee-side started from a problem-solving approach. Employees now tended to consistently attribute the employers’ actions to either the employers’ ongoing generalised injustice towards employees, or a campaign against them (the employee) personally.

This time the employer-side, (the employers and/or their representatives) were the ones who typically commence by being open-minded with regards to the other sides’ motives. However, as the dispute progresses, with the employee-side demonstrating a contending approach and reluctance to engage in problem solving, the employer-side tended to increasingly attribute the employee’s actions to what were perceived as rather unworthy, self-serving, or misguided/ill-informed, motives. Again, overall, all of these perspectives had high potential for escalating the conflict.

10.3 Major Category (2): Mutual Problem-Solving

10.3.1 Defining forms of ‘mutual problem-solving’

The sequences in the “mutual problem-solving” category are markedly different from the ‘non-mutual initial approaches’ category. Firstly, the approaches are mutual, and secondly they both involve situations where both parties adopt what is largely a problem-solving approach; neither party adopts a contending approach. Within either the employee-side or the employer-side however, there may be individuals who do not primarily use this approach. Importantly though, other, influential individuals do utilise a problem-solving approach, and those individuals have a high degree of influence on the *overall* approach for their side, with the result that the dominant approach for both sides is problem-solving. The dispute sequence is shown in Figure 17, and the associated approach-related variables are shown in Table 22.

10.3.1.1 Sub-type (i): Dispute Type: Interpretation (INT)

Stage 1	Dispute (INT) emerges
	↓
Stage 2	employee bypasses attempts at in-house resolution on their own, and instead a third-party (union) is involved virtually from the outset third-party (union, national level) for employee-side, enters the dispute
	↓
Stage 3	employers bring in their own internal third-party (senior management and corporate HR /ER)
	↓
Stage 4	Pre-mediation interaction; Discussions between employer and employee parties, but the matter is not resolved – stalemate results
	↓
Stage 5	Dispute is unresolved – mediation is proposed
	↓
Stage 6	mediation – strong problem-solving approach by representatives; settlement is reached
	↓
Stage 7	dispute ends employment relationship continues

Figure 17: Dispute sequence for Cases Fleet, Blubank

Table 22: Approach-related variables - Fleet, Blubank

APPROACH RELATED VARIABLES	
Relationships:	
Employee-representative (union)	External, ongoing relationship (Nature), High concern for relationships (Concern)
Employer representatives (snr mgt, HR/ER)	Internal, ongoing relations with employee(s) (Nature), High relationship-concern (Concern)
Issues	
Employees (union)	Important interests (but these were only <i>parts</i> of job), principle, precedent, strategic importance, justice
Employers	Principle, precedent, strategic importance, justice
Attributions	
By Employees	Employers are seen as motivated by organisational goals and attitudes
By Employers	Employees are seen as pursuing an understandable but misguided belief
Dispute handling competency:	
Employees	prior experience and close links with union; bypass attempts at in-house intervention and resolution
Employee representative	Experienced and able to implement a problem-solving approach, planning approaches to match the needs of the situation
Employers representatives	Experienced and able to implement a problem-solving approach (in place of contending), planning approaches to match the needs of the situation
Orientations	
Employees	Getting specific rights
Employers	Risk / Relational (Win, Fleet local manager)
Approaches	
Employees	Problem-solving / Contending
Employee representatives	Problem-solving (overall)
Employers representatives	Problem-solving (overall)
Influence (own side's approach)	Employees' representatives = High Employers' representatives = High in Fleet, Low in Blubank
Escalation (overall)	Low (overall), primarily due to the approaches of one or more parties on each side. Escalate to external mediation (perceived as a higher level), with additional parties involved. However parties on both sides with strong problem-solving approaches "de-escalate" the situation.
POWER	
Power - Employee	Organisational: High; in-house resolution options perceived as generally effective (even if it did not succeed in resolving this particular issue), high conflict legitimacy Individual: Moderate; contacts and resources, low-middle range positions External: Very High – strong union support, and union has significant influence on organisation

SUMMARY: APPROACH RELATED VARIABLES -			
	Employees	Employee-representative	Employer / representative (HR staff)
Relationships:	Ongoing	External, Ongoing	Internal, Ongoing
(a) Nature			
(b) Concern	High	High	High
Issues	Important interests (aspects of job), principle, precedent, strategic importance, justice	Principle, precedent, strategic importance	Principle, precedent, strategic importance, justice
Dispute Competency	High	High	High
Orientation	Getting specific rights	-	Risk / Relational

Approaches	Problem-solving / contending	Problem-solving	Problem-solving
Influence (own side's approach)	-	High	High in Fleet, Low in Blubank
Escalation (overall)	Low		
POWER			
Power - Employee	Individual: High Organisational: Moderate External: High	-	-

In analysing the specific dispute-sequence pattern involved with this category, it is important to firstly note a number of significant aspects associated with these two cases, which represent marked differences from the cases discussed so far. Firstly, in terms of dispute type, the "interpretation" focus at the core of the disputes is associated with their highly collective nature, unlike the IPC and CD cases. The issues under contention were also different; in the IPC and CD-C cases, the employees' overall job was in jeopardy, and consequently the issues were of great personal significance, creating high levels of emotional involvement. In contrast, in these two new cases, the issues were of lower personal significance, but instead they held considerable strategic importance for the unions, and this resulted in the unions providing significant resources, including the involvement of national-level union officials. This also meant that, in terms of power, the employees had greater external support. In addition, the unions involved were regarded as having a high level of power, being able to exert considerable influence on the employing organisations. Consequently the employees involved in the disputes had markedly greater external power than the other cases.

The long-standing relationships between the unions and the employing organisations included well established protocols for dealing with issues, as well as regularly used formal procedures in the case of Fleet. As the disputes unfolded, the practical dimensions of these relationships were evident in the extent of dialogue that occurred between the parties. Again, this was significantly different from the other dispute sequences.

This also meant that, in terms of organisational power, the employees benefited from their employers having such well-established in-house resolution options, as well as a culture which was very tolerant of conflict. Overall, the employees had a high level of power, resulting largely from the organisational and external dimensions associated with the union and the dispute resolution procedures within the organisations. This compensated for their relatively lower power in terms of the employees own personal (individual) factors. This represented a marked difference from the other cases, where the employees generally had low power at all three levels; organisation, individual, and external.

Perhaps one of the most intriguing aspects of these two cases however, was the multiple levels of interaction involved in the disputes. In Fleet, there was an additional stage in the sequence, with the dispute initially occurring between local parties; the local manager and the local (on-site) union

representatives. This interaction led to an initial escalation of the dispute. However, when the national-level parties, the corporate HR advisor and the union's national secretary, entered into the dispute they exerted considerable influence with their own problem solving approaches. Their influence was such that it outweighed the contending approaches of the local parties which had created the earlier stalemate.

In contrast, with Blubank, two interactions occurred in parallel. On one level, there were interactions between the union's national officials, and the employing organisation's corporate ER staff. These national-level interactions involved significant contending elements, with threats and political stances from the union, which were matched by unwavering, positional stances from the corporate staff. As a consequence, at this national-level, the dispute tended to escalate - the reverse of what occurred with the national-level activity in Fleet. However, these were not the only individuals involved, as other members of both the employee, and employer, sides interacted at a local level, illustrating the marked differences in approaches among members of the same organisation (union and employer). The Regional Manager and the employee independently continued their own, local-level dialogue, functioning in a much more conciliatory manner which attempted to address the interests of both parties, and resolve the basic interests at the core of the dispute. This interaction significantly de-escalated the dispute and eventually proved to have greater influence, leading to the resolution of the dispute in a manner that led both parties to conclude that they had "won".

The key aspect therefore, which perhaps distinguished these cases from the other dispute sequences, was the existence of skilled problem-solvers on *both* sides of the dispute. In contrast to the divided approaches, differing levels of competency, and varying attitudes to relationships, that existed in the other types of dispute sequences, these mutual problem-solving cases were characterised by shared approaches (problem-solving), constantly higher levels of dispute handling competency, and a common perspective on relationships (nature and concern) - on both employer, and employee, sides.

Although these disputes did escalate by progressing to external mediation and involving additional parties, they were different from the other sequences in that they did not involve significant increases in intensity, nor in the numbers of issues involved, and there was no generalised intolerance of other side. The extent of escalation was therefore considerably lower in these mutual problem-solving cases, and the resolutions achieved were of much greater mutual benefit for both parties, with their employment relationships continuing on an ongoing basis.

10.3.1.2 Sub-type (ii): Dispute type (ii): Interpersonal Conflict (IPC)

Case: News

Although involving a different dispute type, the case of News followed this same essential pattern. As an interpersonal conflict (IPC –High), the issues focused more on matters of personal importance such as the employee's whole job (rather than matters of a wider strategic, collective importance). The representatives on both sides were external third parties (lawyers), rather than unions. However, although these representatives were external, with no long term relationships, they exhibited the same high concern for relationships, present in the other mutual problem-solving cases. As mentioned in earlier discussions, these representatives were also very skilled, with a high level of competency, adapting their tactics and approach to the needs of a specific situation, in a manner similar to the parties in Fleet and Blubank. Likewise, the representatives in News had significant influence, with their problem-solving approach forming the dominant strategy on both sides of the dispute.

The employee had a high level of overall power, similar to the employees in the other mutual problem-solving cases. However, the sources of this power differed with an absence of the internal structures and conflict legitimacy that were present in the union-based organisation, but instead a certain amount of organisational power derived from the crucial position that the employee held. In addition, a large amount of power came from his own individual factors, which, as mentioned in earlier discussions, centred on his personal skills, employability, knowledge, experience, resources and contacts, along with the financial power which allowed him to fund an expensive external representative. The external power thus came not from the power of a union, but rather from the representative's legal abilities, with the power from involving a qualified lawyer, (who also possessed the high levels of dispute handling competency).

The outcome also differed, in that the dispute ended with the termination of the employment relationship – rather than the continuation of the relationships in the other mutual problem-solving cases. This raises a significant issue. Potentially, this can be attributed to the nature of the dispute, since the core problem was largely relational, affecting the overall relationship, unlike the interpretation disputes which only involved one aspect of the employment relationship. It may be that the relationship was either fundamentally unworkable with 'irreconcilable differences' between employer and employee which could not be changed. Alternatively, even if at some stage there had been the potential to "restore" the relationship, by the time of involving the third parties and seeking mediation, there had already been a significant decline which may have been too great to reverse, especially when the only intervention was the brief involvement of two lawyers.

Notwithstanding this limitation, the outcome was significantly better than in cases where both parties ended up with mutually contending approaches. In this case, the employee gained a much more favourable outcome than the other employees, and the manner in which it was conducted left both the employer and employee believing that they literally had “won”. Part of this can be attributed to the power of the employee (particularly the individual factors), but the mutual satisfaction can be attributed to the mutual problem-solving approach of the parties. Overall then, News, provides another particularly instructive example which will be referred to again later.

10.3.1.3 The common pattern

Overall then, aside from these minor variations, once again there is a distinct, common pattern among these four cases – some of the most obvious aspects that it is characterised by include;

- (1) Approach: In terms of the variables influencing Approach, the most marked are:
 - Relationship concern: overall, there is evidence of high levels of relationship concern on both sides of the dispute
 - Competency: on both sides, there are influential individuals who demonstrate high levels of competency in dispute handling
 - These variables together produce a mutual problem-solving approach, where both parties place emphasis on their own interests as well as those of the other party
 - This results in a lower level of overall escalation
- (2) Interaction: *mutual* problem-solving approach – this approach predominates on both sides of the dispute

Overall then, the dispute can be classed as ‘mutual problem-solving, with low escalation’

- (3) Power: The employees in this category also have significantly higher power, compared to the employees in other cases

10.3.2 The case of Corg A: an outlier

Corg A represented an unusual case which shared many similarities with the mutual problem solving cases, yet had its own distinct identity.

The employee bypassed in-house attempts at resolution (due to the perceived significance of the issues involved), and introduced a lawyer as an external third-party, while the employer continued to use in-house representation through to the mediation stage. Although the dispute proceeded through to the Employment Relations Authority where the employee was unsuccessful, nonetheless, the employment relationship continued on an ongoing basis, similar to the mutual problem solving cases.

The issues were rather unusual as they focused more on the principles and justice associated with a single specific matter, rather than the strategic issues, or the loss of a job, in the mutual problem-solving cases. The employee's orientation was one of "getting specific rights", matching the interpretation cases. The parties, particularly the employer and employee, also exhibited a similarly high-level of dispute handling competency, as discussed previously – even to the point of maintaining the employment relationship despite the lengthy legal action.

The employee's approach was essentially contending, but in a controlled manner as this focused narrowly on one specific issue – the apparent injustice of a disciplinary decision. Aside from this, the employee's approach was very much focused on maintaining a relationship with the employer. Consequently, although the dispute escalated in terms of the levels, and number of people involved, it did not escalate in terms of intensity or the number of issues. Thus the overall degree of escalation remained low.

As with the mutual problem-solving employees, the employee in this case also had a higher level of overall power. This resulted firstly, in terms of organisational factors, from a very supportive setting where formal procedures existed, and conflict was accepted (within the boundaries of appropriate procedures). While the employee's individual power was low, however he obtained significant external power through engaging a specialised and experienced lawyer, bringing resources and power from this expertise.

The overall pattern in this case is therefore;

(1) Approach:

- Relationship concern: overall, as with the other mutual problem-solving cases, there is evidence of high levels of relationship concern from the individual employee and the in-house members of the employer-side; (the external representatives for both sides functioned within a specific,

narrow brief, dealing with the legal aspects, and although not necessarily exhibiting high concern, were cognisant of their potential effects on relationships)

- Competency: again, from both the individual employee and the in-house members of the employer side, there were high levels of competency in dispute handling (and at least awareness on the part of the external representatives)
 - the most interesting aspect was the resulting two-level nature of the parties' approaches, with a contending approach used in relation to a specific narrow topic, while the remainder of the relationship held high levels of other-concern (consistent with a problem-solving approach)
 - This results in a lower level of overall escalation, as with the mutual problem-solving cases
- (2) The legal dispute was focused on testing a question of law. It did not extend to the "heavier" tactics normally associated with contending, but simply that the employee would not "drop" issue and instead pursued legal action to higher levels. Perhaps it is best in classified as a combination of problem solving and contending, with low escalation
- (3) Once again, as with the other mutual problem solving cases, the employee also had significantly higher power, (compared to the employees in other categories)

Given these strong similarities, Corg A is perhaps best considered as a variant of the mutual problem solving, low escalation category.

10.4 Distinguishing between concern for relationships (Concern) and dispute handling competency (Competency)

With the first two sequences involving contending-dominated approaches, it was difficult to determine with great accuracy whether a party had low concern for relationships (Concern), or whether their actions were due to low dispute handling competency (Competency). The escalatory behaviour that resulted could have been due to either of these factors. These aspects had to be inferred from a range of factors, including the parties' observed behaviour, their own interviews, and the information from other research participants. In some instances, all the evidence pointed to the fact that a party simply "didn't know" (low competency). With other parties however, the information consistently converged on a conclusion that they "didn't care" (low concern), and deliberately chose a particular approach such as contending, in the belief that this was the best way of serving their own (or their clients') interests. The important issue overall though, was that the absence of either of these variables, could lead to escalation of the dispute. In contrast, the mutual problem solving sequences required that a party had

both Concern and Competency. If either of these were absent, then it is unlikely that the low-escalation pattern would not have occurred.

10.5 Summary

In summary, the analysis identified three main categories of interactions. The first two have strong similarities, and in some ways it could be argued that they are simply the mirror image of one another. The third category, mutual problem-solving, stands quite distinct and separate from the other categories.

There would appear to be key differences in terms of the dispute interaction sequences, and the patterns appear to be consistent with the propositions associated with the following variables and their functioning, as shown in Table 23;

Table 23: Comparison of propositions and findings for the dimensions

Dimension	Proposition	Findings
Relationships; nature & concern	Positive ongoing relationships, and high concern associated with problem-solving approach and low escalation	Association, in the direction proposed
Issues	Specified categories of issues identified are likely to lead to contending approaches and escalation	Association, in the direction proposed
Attributions	Negative attributions regarding the other party likely to lead to contending approaches and escalation	Association, in the direction proposed
Dispute handling competency	High competency likely to be associated with problem-solving approaches and low escalation	Association, in the direction proposed
Representatives - approach and influence	Party's approach likely to be shaped by own representatives approach where representative has high influence	Association, in the direction proposed
Orientations (own)	Relational orientations are more likely to be associated with problem-solving strategies	Association, but causality difficult to prove*
Approach of the other party	Problem-solving only functions where there is mutuality, and otherwise reverts to predominance of contending	Association, in the direction proposed

There are several important points to note with regard to the influence of individual variables. Firstly, among these variables, some appear to exert more significant influence than others. For example, in terms of Relationship, if a party did not have a positive ongoing relationship with the other party (Nature), but did have high Concern, then the level of Concern would outweigh the absence of ongoing relationship and this would be associated with lower levels of escalation. In this regard, Concern could be considered the more important dimension. However, Nature was still important; in situations where the party (or parties) had low Concern, then the introduction of an “outsider” party which did not have any kind of positive ongoing relationship could further escalate the situation.

In a similar manner, in the problem-solving sequence, the Attributions and Orientations were ones which were less likely to produce escalation than in the contending-dominate sequences. Although the Issues were of a variety which was less likely to produce wide-scale escalation, they were still ones that would typically provoke a degree of escalation and lead to the creation of disputes. Therefore, the mitigating or counteracting effects of the other variables which were not escalatory, presumably outweighed the effects of the Issues, resulting in the overall situation of low escalation.

Variables such as Issues and Attributions also varied by individual cases *within* a category. For example, in the mutual problem solving category, Fleet and Blubank involved Issues associated with interpretation disputes, whereas the variant case of News involved the more personalised issues

associated with interpersonal conflict. While the personalised issues in the News case could, on their own, lead to a more contending approach, the combined effect of other variables involved appeared to once again outweigh the effect of other variables such as Issues (and perhaps Attributions), leading to the overall problem solving approach.⁵⁰

Although there was a clear correlation between a party's Orientation and their dispute handling Approach, the causal link between the two was difficult to demonstrate. There were numerous, very strong associations between the two variables though. One particularly interesting example in this regard was News, where the employer had a "business costs" orientation, while the employee's orientation was one of "getting a deal" (financial compensation). Together, these orientations did lend themselves to a problem-solving approach where the parties could focus very clearly on negotiating a deal which both accommodated the employer's business costs and also provided the type of compensatory settlement that the employee sought.

In addition, more broadly, among employees with a "getting out" orientation, there was often also some significant degree of emotional involvement which could be coupled with anger and a sense of revenge in response to the employer's actions. These emotional factors on the part of the employees, appeared to be linked to a readiness to adopt a more contending-styled approach themselves, or support such an approach from their representative. While, in terms of Concern and Competency, the employees may have known that aggressive tactics may not be wise, the employees could be inclined to use such tactics, if only for emotional, rather than logical reasons.

For the sake of brevity, some of the more salient variables are summarised in Table 24 below, to illustrate the differences between the three categories.

⁵⁰ In this case the attributions and orientation were also more likely to produce escalation, however the overall result was still the problem solving approach.

Table 24: Variables associated with the three main approaches

	Problem-Solving Employee-side Contending Employer- side; ("brick wall employer combination")	Problem-Solving Employer-side, and Contending Employee- side; ("stick it to them" employee attitude)	Mutual problem-solving
Relationship concern Employee-side Employer-side	High Low	Low High	High High
Issues			
Employees	Important interests (lose/retain job), justice, equity and principles	Important interests (lose/retain job), justice, equity and principles	Strategic collective importance, principle, precedent , fairness
Employers	Principle, precedent , fairness, autonomy	Principle, precedent , fairness, autonomy	Strategic importance, principle, precedent , fairness
Attributions	Intolerant / becomes intolerant of other side	Intolerant / becomes intolerant of other side	Accept other side's motivation
Dispute handling competency Employee-side Employer-side	High Low	Low High	High High
Other party's approach Employee-side Employer-side	Other = contending Other = problem-solving	Other = problem-solving other = contending	Other = problem-solving Other = problem-solving
Approach (own) Employee-side Employer-side	PRBS → CTDG CTDG	CTDG PRBS → CTDG	PRBS PRBS
Escalation	High	High	Low
Overall classification	Becomes mutual contending, high escalation	Becomes mutual contending, high escalation	Mutual problem-solving, low escalation

Table 25 summarises the interactions that occurred in forming the Dispute Interactions, as well as the other core constructs of Dispute Type and Employee Power.

Table 25: Interactions of approaches forming overall Dispute Interactions

Case	Dispute Type	Employee Power	Interaction Type				Final outcome
			Employee	Employer	Summary	Escalation	
ALARMS	IPC H-C	Low	<i>PRB S → CTDG</i>	CTDG	CTDG	High	Exit T1
COPIER	IPC H-C	Low	CTDG	<i>PRB S → CTDG</i>	CTDG	High	Exit T1
GAMBLE	IPC H-C	Low	<i>PRB S → CTDG</i>	CTDG	CTDG	High	Exit T1
REDBANK	IPC H-C	Low	<i>PRB S → CTDG</i>	CTDG	CTDG	High	Exit T2
RETAIL	IPC H-C	Low	CTDG	<i>PRB S → CTDG</i>	CTDG	High	Exit T1
WASTE	CD then IPC H-C	Low	CTDG	<i>PRB S → CTDG</i>	CTDG	High	Exit T2
ROAD	IPC L-C	Low	CTDG	<i>PRB S → CTDG</i>	CTDG	High	Redundancy
CORG – B	CD - C	Low	CTDG	<i>PRB S → CTDG</i>	CTDG	High	Exit T1
MOVERS	CD - C	Low	<i>PRB S → CTDG</i>	CTDG	CTDG	High	Exit T2
TERMINUS	CD - C	Low	<i>PRB S → CTDG</i>	CTDG	CTDG	High	Exit T2
NEWS	IPC H-C	High	PRB S	PRB S	PRB S	Low	Exit T1
CORG- A	CD - S	High	PRB S (<i>CTDG partial</i>)	PRB S (<i>CTDG partial</i>)	PRB S (<i>CTDG partial</i>)	Low	Relationship maintained
BLUBANK	INT	High	PRB S	PRB S	PRB S	Low	Relationship maintained
FLEET	INT	High	PRB S	PRB S	PRB S	Low	Relationship maintained

Having analysed the dynamics of the dispute sequences, including the functioning of the type of Dispute Interaction, the next step in the analytic sequence is to draw together all three of the core constructs that have been identified, and combined these into an overall model. This forms the focus of the following chapter.

Chapter 11: The Proposed Model

11.0.1 Introduction

The research question focused on the central issue of “what influences the course of an employment relationship problem?” From the analysis of the data, three core constructs emerged which form the foundations for a proposed model of the dispute processes. The following section outlines that model in terms of the core components and the dynamics that occur, drawing together and summarising the key findings from each of the previous areas of analysis⁵¹. At the same time, the model draws upon other existing theoretical models and seeks to integrate these into the final formulation. The resulting model is grounded in the data, and offers predictive potential for a wider range of cases.

The model is centred upon three core constructs, consisting of the Dispute Type, the relative Power of a party, and the Interaction Type, as shown in Figure 18. These are discussed in turn.

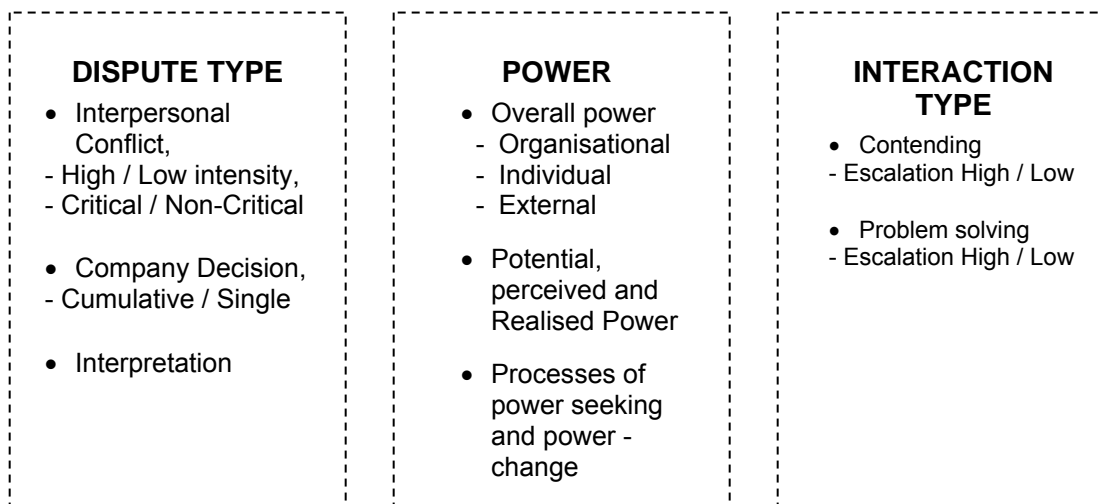


Figure 18: Core constructs

⁵¹ There is a slight repetition of the earlier material, but this is for the purpose of drawing together the key findings.

11.1 Core Construct (1): Dispute Type

11.1.1 Identifying Dispute Types

The first core construct is the Dispute Type or "substance" of a dispute. This is defined as the fundamental nature of the dispute, in terms of the underlying nature of the perceived problem or injustice.

Three types of dispute are proposed;

11.1.1.1 Dispute Type (a): Interpersonal conflict (IPC)

This type of dispute is characterised by its relational nature, with the perceived mistreatment seen as resulting from the relationship between the employee and an employer-party who is targeting the particular employee. There are two main variants; the first concerns the principal other-party to the dispute, which can be a person with whom the employee is in either a critical (C), or non-critical (N) relationship, and the second concerns the intensity of the dispute which can be either high (H) or low (L).

11.1.1.2 Dispute Type (b): Company decision (CD)

With "company decisions" the predominant issue concerns a decision made by a representative of the company, concerning a particular employee, and affecting issues such as pay, or the outcome of disciplinary proceedings, which can involve for example, an official warning being issued. The defining feature of this type of dispute is that it involves the application of a recognised, and mutually agreed, company policy or procedure to the situation of an individual employee.

There are two variants within this type of dispute, varying according to the extent to which the specific issue under dispute is either a single issue, or whether it represents part of a longer term sequence of unsatisfactory interactions between the employer and employee. The first form is the "single" variant, where the disputed action only constitutes a single, discrete issue, without a significant prior history; this only affects one part of the employment relationship, and consequently the broader employment relationship remains unaffected. The second form is the "cumulative" variant, where the current dispute action is part of a longer sequence including a history of other disputes, which the employee interprets as being part of a longer-term pattern of employer behaviours that are unreasonable or unfair

11.1.1.3 Dispute Type (c): Interpretation

“Interpretation” disputes are centred on the interpretation of a collective rule or policy, associated with the employees' Collective Agreement. These disputes largely represent a ‘test case’, where the union and employer seek to define collective rules in areas where the two parties have differing interpretations. The disputes are therefore predominantly between the employer and the union, with the result that it is the ‘union’s dispute’, rather than simply an issue for the individual employee at the centre of the dispute. The issue is not directly personalised, and it is about defining the rule, rather than debating the application (as occurs in a company decision).

Across the three types of dispute, the issues under contention vary significantly. With the high-level interpersonal conflict (IPC H-C) and company decision-cumulative disputes (CD-C), the issues are of high importance for the individual employee, especially since it is usually a question of whether they will retain or lose their job. In contrast, with the company decision-single (CD-S) disputes, the issue under contention is much narrower, representing only one specific aspect of the employee’s job. Finally, with the interpretation (INT) dispute type, the issue under contention has far greater strategic significance as the contest is really the union’s dispute, whereas for the individual employee, only part of their job is at stake.

11.1.2 The Effect of Dispute Type

At face value, the construct of Dispute Type seems a rather static matter. In reality however, it exerts a major predetermining influence on the course of the dispute. Table 26 shows the cases in terms of the core constructs and the final outcomes of the disputes.

Table 26: Core constructs by cases

Case	Dispute Type	Employee Power	Dispute Interaction	Type	Final outcome	
ALARMS	IPC C-Hi	Low	CTDG	High	Exit T1	<i>Meteors</i>
COPIER	IPC C-Hi	Low	CTDG	High	Exit T1	
GAMMA	IPC C-Hi	Low	CTDG	High	Exit T1	
REDBANK	IPC C-Hi	Low	CTDG	High	Exit T2	
RETAIL	IPC C-Hi	Low	CTDG	High	Exit T1	
WASTE	(CD then) IPC C-Hi	Low	CTDG	High	Exit T2	
ROAD	IPC C-Lo	Low	CTDG	High	Redundancy	<i>Erosion</i>
CORG – B	CD - C	Low	CTDG	High	Exit T1	
MOVERS	CD - C	Low	CTDG	High	Exit T2	
TERMINUS	CD - C	Low	CTDG	High	Exit T2	
NEWS	IPC C-Hi	High	PRB S	Low	Exit T1	<i>Meteors / Torts</i>
CORG- A	CD - S	High	PRB S (CTDG partial)	Low	Relationship maintained	<i>Torts</i>
BLUBANK	INT	High	PRB S	Low	Relationship maintained	<i>Battle of the giants</i>
FLEET	INT	High	PRB S	Low	Relationship maintained	

Each dispute type is associated with a markedly different course. Interpersonal conflict disputes, particularly those involving a critical relationship and with high intensity (IPC C-Hi), involve a combination of the three highly significant elements; their relational nature, the extensive change affecting the overall relationship, and the comparatively rapid process of relationship decline. Together, these influences mean that there are very limited opportunities to restore the situation. Once the problem reaches the stage of becoming a “dispute”, the relationship has already been significantly and perhaps irreparably changed, with little chance of reversing this change, and the relationship is typically moving rapidly towards its demise. If things go wrong in an interpersonal conflict, there is very little chance for restoring them.

In contrast, with the company decision (CD) there is generally a much longer timeframe and a slower rate of decline. With a single company decision (CD-S) dispute, the matter typically has a low relational component, and affects only one aspect of the overall employment relationship, allowing opportunity to resolve that specific disputed issue. The nature of the dispute, and the longer timeframe associated with this, also means that even if the relationship change begins to expand to a series of disputed issues, there are more opportunities for intervention before the overall progression (the sequence of disputes) gradually accumulates into a full company-decision-cumulative (CD-C) dispute type. However, once the series of disputes does reach the point where significant cumulative change has occurred in the relationship (CDC), then the path towards relationship termination is also largely predetermined.

The collective nature of interpretation (INT) disputes produces very different dynamics. The emphasis on the strategic significance of the issues for the broader organisations (employer and union), and the relationships between those two parties, shifts the focus away from the individualised matter of a single employee. A significantly larger number of individuals are usually involved, the issues and the outcomes of the disputes are usually more public, and there is a much greater chance of the employment relationship continuing on an ongoing basis.

It would seem then, that to a large extent, the Dispute Type sets the parameters of what can be achieved in the subsequent dispute handling. If for example, a dispute involves interpersonal conflict of high intensity and affecting a critical relationship (IPC Critical + High), then with the cases observed, the nature of the dispute was inevitably associated with the demise of the relationship. Even in the case of News, where all the other main variables were highly favourable for resolution, the type of dispute involved still meant that the best that could be achieved was an amicable and equitable settlement; nonetheless, the relationship still ended in termination. A similar pattern occurred for the CD-C disputes once these had reached the point of involving a significant change in the relationship between employer and employee.

11.2 Core Construct (2): Power

The second core construct is power. Power is defined as “A has power over B to the extent that he can get B to do something that he would not otherwise do” (Dahl 1957, pp.202-203).

Power emerged from the analyses as a central construct, both in the decision-making processes of the two main parties, as well as in the variables influencing the dispute handling approach adopted by the parties. It is proposed therefore that Power is a key variable, shaping the behaviour of the parties as they attempt to deal with disputes. Power is considered in two different-yet-related perspectives, firstly in terms of the sources of power, and secondly in terms of the dynamic sequences of action associated with power.

11.2.1 Power Sources

Power is a relative matter, with one party's power being considered in relation to the other party's power. The greater variation however is typically within the levels of employees' power, compared to the power and resources available to employers. It is proposed that the power available to employees varies in terms of three main sources.

11.2.1.1 Organisational level

The organisational-level variables consist of the features of an organisational setting which permit a party to have influence in rectifying the perceived mistreatment at the centre of the dispute, and resolving the dispute in a manner which preserves the employee's interests. These include the protections available for the rights of employees, particularly with regard to unilateral changes to the employee's conditions and protection against dismissal. Of particular importance are the procedures for raising and addressing disputed issues within the organisation, taking into account whether such procedures do exist, and if so, the extent to which the employees perceive them as actually being effective. While some organisations may officially have procedures, from the employee's perspective, those procedures may be perceived as having little value - for example due to a perceived lack of objectivity on the part of those administering the procedures, and/or because there are very low levels of conflict legitimacy within the organisation. If it is not acceptable to challenge issues and pursue disputes with management, then even if the employee does resolve a specific disputed issue the short term, in the longer term however the employee may be subject to greater costs in terms of increased unfavourable dealings from management, along the lines of the already documented issues of potential

retribution in the existing literature (Klaas and De Nisi 1989; Olson-Buchanan 1996)⁵².

It is proposed that, in situations where a party has these resources and consequently possesses a genuine, significant ability to influence their situation, the party will have greater power at this organisational-level, in terms of resolving disputes. This power will significantly shape the course of the dispute, with an increased possibility of resolution in a manner that preserves the party's interests.

11.2.1.2 Individual level

The individual-level variables centre on the resources brought to a dispute by the individual themselves. These include the individual's skills, the seniority and importance of their role or occupation, their contacts, as well as their resources, including financial resources.

Where an employee has valued skills, they will typically have greater bargaining power, partly due to the fact that they will be more difficult for the company to replace, while from the employee's perspective, they will be less dependent on the particular company as they are highly employable and able to obtain work elsewhere. An individual employed in a senior role, or involved in an occupation that has high status within an organisation, will typically have greater ability to influence the course of a dispute in a manner that favours their own interests. Accompanying this, employees who have experience, skills and knowledge related to areas such as commerce and dealing with disputes and legal issues, will also have greater ability to influence the handling of a dispute and to protect their interests. In addition, where employees have a greater range of resources available to them personally, including financial resources, those employees will be more able to access options such as external representation, and avenues such as higher-level justice and employment structures, with the associated power that comes from these.

It is proposed that where a party has a higher degree of power at this individual-level, there is, once more, an increased possibility of resolving the dispute in a manner that protects the party's interests.

News was an example of an employee who possessed high levels of power at the individual level. This person was in a very senior role within the organisation, they worked in a professional, high status occupation, and had considerable skills and knowledge from their previous experience working with commercial and criminal legal issues. The individual was highly employable, and able to secure other employment internationally. In addition, the person had a range of resources and contacts, providing information and advice, as well as the ability to select and fund a highly skilled, expensive external representative.

⁵² These features are frequently, but not exclusively, associated with larger organisations, and situations where there are well-established procedures for dispute handling that have been developed in conjunction with a union.

In contrast, Retail was an example of low power, in terms of the individual employee's power. The person had low skills, working in a lower-level occupation, and lower-level role within the organisation, and was employed in a sector that was not highly valued. The employee had few contacts, and little experience of dealing with legal issues or disputes. In addition, the employee had very limited financial resources which constrained the choices of external representation available.

11.2.1.3 External Level

The external-level variables concern the power and resources which a party can access from sources outside of the organisation, for the purposes of rectifying perceived wrongdoing by the employer and thus resolving disputes. These include for example, the collective power of a union, or the expert power of a professional such as a lawyer, with the knowledge and skills that they would bring to a dispute. The level of power available to an employee is dependent on the power and resources that an external party both possesses, and is also willing to use to support the case of the particular individual or party. In addition, other external features which can increase the power of a party include the protections and support available from external structures, such as the employment relations and legal systems.

Once again, it is proposed that where a party possesses higher levels of external power, this brings the increased possibility of influencing the employer and resolving the dispute in a manner which preserves and accommodates the party's interests.

From a broader perspective then, it is proposed that if overall, a party has low power, lacking the ability to influence their situation at all of these three levels, then this will be associated with a reduced likelihood of the party being able to resolve the dispute issues in a manner that they perceive as satisfactory. The party's interests are likely to be compromised or denied, and as a consequence it is likely that the only effective option for the party to end the dispute will be through withdrawing, terminating the employment relationship completely. Put simply, if an employee has low power overall, they will be unable to influence their situation and it is highly likely that they will choose to exit, leaving their employment. This represents the sort of situation where the other party truly does "hold all the cards".

11.2.2 Power-Related Processes

The model also proposes a dynamic process, involving a series of causally related stages, with the progression of dispute sequences driven by the parties' attempts to gain and use power, in order to protect their own interests. This is based around several components or "moments" of power;

- **Perceived power**, concerning the party's assessments of their own potential power in a relationship
- **Potential power which refers to** the underlying capacity of a party to obtain benefits from the interaction.
- **Realised Power** (Outcome), concerning the extent to which a party does receive benefits from the interaction

In addition, Power Use refers to 'Attempts at Influence', as a party seeks to use the power available to them to rectify a situation that is perceived as unfavourable.

The process begins with a party seeking to alter a situation that they perceive as unfavourable to them. The first step consists of the party making an evaluation of the power available to them, which leads to their perception (Perceived Power) of their Potential Power. This perception can then lead the party to take action with Attempts at Influence (Power-Use). This leads to an Outcome (Realised Power) which concerns the extent to which the party has been successful in resolving the unsatisfactory issues. This outcome then leads the party to re-evaluate their power, forming a revised perception of their power. When the party perceives that they had insufficient power to successfully alter their situation, they then typically seek to increase their power through the introduction of a new power-source. While the organisational and individual sources may be largely fixed and difficult to change, a party will seek to gain additional power through the use of the external sources; this move to access new sources of power represents a process of power-seeking.

The dispute sequence then commences over again with a new iteration, commencing with the new perception (perceived power), deriving from the new level of power that is potentially available, and leading to attempts at influence (power-use), and outcomes (realised power). Power is therefore a determinant of each stage or iteration of a dispute sequence, as well as the overall outcome.

Accompanying this is the notion of Power-Change, drawing on power-dependence theory which proposes that one party's power is a function of the other party's dependence on them. The two dimensions that form dependency consist of the value that a party attaches to the current 'outcome' (employment relationship, in this case), and the value of an alternative. Power-change typically consists of a party attempting to increase their own relative power by either lowering the value of the

current employment relationship, and/or increasing the value of an alternative. (In theory, a party could attempt to increase the other party's dependence on them, but in practice there was little evidence of this in the data).

The ultimate outcome of these processes is the level of 'overall power' that a party has, relative to the other party in the dispute. This power derives from the three sources listed earlier. In terms of the dependency model of power, it is the power that a party holds while they are still in, and wanting to remain in, the current employment relationship, prior to any attempt to make a change in relative power by devaluing the current outcome value or increasing the value of alternatives, as part of a move to exit the relationship

These propositions were evidenced in analysis of the dispute sequences, and the overall pattern is illustrated in Table 26, where the cases involving employees with lower-levels of power consistently concluded with the employee terminating the employment relationship⁵³.

Power is also inter-related with the third core construct of Interaction Type, and thus interaction will be discussed further in relation to that construct, below.

11.3 Core Construct (3): Interaction Type

11.3.1 Defining Interaction Type

The Interaction Type is the nature of the interaction between the two main parties to a dispute. Each party has a predominant approach, which consists of a strategy - or often a combination or sequence of strategies - along with accompanying tactics for implementing those strategies.

At this point, the model draws on Pruitt and Kim's (2004) Dual Concern model, which proposes that there are two main dimensions, or types of "concerns" in a dispute. The first consists of "self concern", which refers to a party's concern about its own outcomes, placing importance on its own interests in the dispute. When a party is self-concerned, its aspirations tend to be rigid and high and it is quite resistant to yielding. The second, termed "other concern", occurs where a party is concerned about the other side's outcomes, placing importance on the interests of the other party and their outcomes.

⁵³ It was not possible to identify effects associated with a specific dimension of power, organisational, individual, or external. Only one case involved a high-level of individual power. Higher levels of organisational power only occurred in conjunction with interpretation (INT) and company decision – single (CD-S) dispute types, and problem solving approaches.

The combination of these two types of concerns produces four main strategies, which vary in terms of the extent to which a party has high or low levels of either self-concern, and of other concern. The four strategies are as follows;

Contending occurs when a party has high levels of self-concern, but low levels of other-concern. The party therefore attempts to resolve a dispute on their own terms, without regard to the other side's interests, attempting to persuade or force the other party to yield.

Problem-solving, in contrast, occurs when a party has both high levels of self-concern, and also high levels of other-concern. This strategy involves attempting to identify the issues which divide the parties, and then moving from this to create a solution which acknowledges the interests of both sides. With this strategy, a party maintains its own aspirations, and at the same time, tries to reconcile them with the other party's aspirations.

Yielding involves the same high levels of other-concern, but only low levels of self-concern. As a result, a party will lower its own aspirations, potentially making partial concessions, although not necessarily going to the full extent of a total capitulation.

Avoiding has low levels of both self-concerns and other-concern. It involves not engaging in the dispute, and the form which occurred most commonly in this research was withdrawal, where the party terminates the conflict by removing themselves from the dispute.

11.3.2 Approaches and Interaction Type

The "Approach" of a party consists of the strategy (or strategies), and tactics which the party utilises in the dispute. The combination of the approaches from both sides of the dispute creates the overall dispute "interaction". Thus, if both sides to the dispute use predominantly contending approaches, then the dispute interaction is one of "mutual contending".

A problem-solving approach can have the advantage of producing outcomes which benefit both parties, rather than solely benefiting one party at the expense of the other. For problem-solving to be effective however, this generally requires mutuality, with both sides utilising the same approach, maintaining their own interests while also attempting to accommodate the other side's interests. Contending, in comparison, focuses solely on one's own interests and uses a range of tactics designed to dominate the other party. In this regard, it is largely incompatible with problem-solving.

If only one party attempts a problem-solving strategy, while the other party utilises a contending

strategy, then mutual problem-solving will not be feasible, and so the party utilising the problem-solving approach will typically alter their approach to respond to the contending approach of the other party. This leads to the overall interaction becoming predominantly based around contending.

11.3.3 The relationship between Interaction Type and Power

The Interaction Type is closely linked with power, as two complementary, but distinct elements. For example, in a situation where the dispute interaction is predominantly contending, one party's interests will prevail at the expense of the other party. Power then becomes a determining factor, as the party with the higher level of power will be able to impose their own interests. An employee with a low level of power for example, will lack influence, and so the employer's interests will dominate, to the exclusion of the employee's.

In an interaction which is predominantly problem-solving however, both parties' interests will be recognised, allowing both sides to have influence on the final outcome. Power is therefore shared more evenly between the parties as a result of the interaction type.

11.3.4 Escalation

The approaches adopted by the parties and the consequent interaction type, partly determine the extent to which escalation occurs in a dispute. Escalation consists of changes which intensify the dispute, making the dispute more difficult to resolve, and these changes are typically difficult to reverse. The changes include both the introduction of "heavier" tactics, and/or an increase in the intensity of the dispute as a whole. For example, if the interaction is mainly mutual contending, with both parties having high self-concern and low other-concern, their own aspirations tend to be rigid and high and they are not willing to yield, with the result that the intensity of the dispute is likely to increase as the parties seek to impose their own interests on the other side.

Power is also associated with escalation, through the power-seeking of parties. If for example, an employee has low power at the organisational and individual levels, they will seek additional power from options at the external level, in order to hopefully gain greater influence in the dispute. This introduction of increased power into the dispute by the employee, leads the employer to perceive that their interests are threatened, resulting in the employer using increased power and/or heavier tactics, as they seek to defend themselves. This produces a conflict spiral, with both sides continuing to increase their power, in order to match their perceived power and threat from the other side, and the

effects of this ongoing escalation are particularly difficult to reverse.

The escalated dispute which results, with a strongly contending interaction, will involve one party attempting to impose their interests on the other. Where the employee has low power, once again, the employee's interests are likely to be compromised or subordinated. As a consequence, faced with this negative type of outcome, the only way for the employee to end the dispute will be to move to withdrawal, and leave the relationship.

11.3.5 The Effects of the Interaction Type

The Interaction Type is classified according to both the type of approach which predominates, as well as the degree to which the dispute escalates. The extent of escalation is simply classified as either high, or low. Together, both of these variables (approach and escalation), capture the interaction, in terms of the nature of the approaches, as well as the escalation in terms of the intensity, and hence the likelihood (or otherwise) of resolution. A dispute therefore can be classified for example, as "mutual contending, high escalation", or "mutual problem-solving, low escalation".

The relationship between the Interaction Type, and the outcome of the dispute, is illustrated in Table 26. Where the Interaction Type is predominantly contending, high escalation, then one party prevails at the expense of the other, and it is almost inevitable that the dispute ends with one party withdrawing from both the dispute, and from the overall employment relationship. With situations of low employee power, for example, it is the employee who leaves the relationship. In contrast however, where the interaction is mutual problem-solving with low escalation, the parties achieve outcomes which benefit both sides. The mutually favourable outcomes which result can be associated with the employment relationship continuing on an ongoing basis. However this is dependent on the dispute type. With high-intensity interpersonal conflict, the rapid, extensive relationship decline that has usually already occurred can outweigh the benefits of the problem-solving interaction that follows, leading to the demise of the relationship.

11.4 The Combined Effect of the three Core Constructs

Identifying the effects of specific constructs on their own is difficult. With Power and Interaction Type, it is difficult to separate out their unique effects, due to the qualitative case study methodology utilised which does not seek to control and manipulate individual variables. Unlike Dispute Type, which

involved a variety of combinations of the other core constructs, with varying levels of employee power, and differing types of dispute interactions, Power and Interaction Type had a much more restricted range of combinations. Cases involving employees with high levels of Power for example, were associated with disputes types where there was only one case (CD-S) or two cases, both of which involved the same level of power (INT), thus making it difficult to separate out the effects of Dispute Type from Power. In terms of Interaction Type, there were only two main types and these co-varied with the levels of employee power; for example, the mutual problem-solving, low escalation type was only associated with cases involving high levels of employee power.

In terms of the relative influence of three core constructs, compared to each other, the example of the case of News does suggest that Dispute Type may exert a very significant influence, with the effects of Power and Interaction Type not being sufficient to counteract the influence of the relational nature of the dispute. With a high-intensity, critical relationship, interpersonal conflict, even if there are both high levels of employee power, and a problem-solving, low escalation interaction, these influences still do not avoid the demise of the employment relationship. Beyond this, it is difficult to make further comment on the variables in isolation.

Instead, considering the actual interplay of the three core constructs, as they operate in conjunction, provided far greater utility. This perspective offered some of the most important and intriguing insights from the research. The analysis revealed four distinct patterns, with clusters of cases reflecting the varying combinations of the constructs as they occurred in real life situations. The differing combinations of the constructs functioned in very different fashions, leading to significantly different outcomes. This interplay between the constructs is perhaps best expressed in the typology which emerged.

11.5 Creating a New Typology of Disputes

A significant finding of the present research was that, by drawing together findings from the earlier analyses, it is possible to discern four types of dispute journeys or sequences, which form a typology based around the core constructs. The key features of the types are shown in Table 27, where the core constructs, and sub-dimensions of those form the vertical axis, and the “types” of dispute sequences form the horizontal axis.

Table 27: Proposed main types of dispute sequences in terms of the core constructs

	Meteors	Erosion	Torts	Battle of the Giants
Nature of Dispute	IPC – H-C	CD – C IPC L-C	CD – S	INT
Extent	Whole relationship	Whole relationship	Single element of relationship	Single element of relationship
Relationship change	SD – LR or SD –SR	LD - LR	NC	NC
Employee Power (overall)	Low	Low	High	High
Organisational	Low	Low	High Procedures and protocols perceived as effective, conflict legitimacy	High Procedures and protocols perceived as effective, conflict legitimacy
Individual	Low	Low	Low	Low - Mod
External	Low Employee uses lower powered union, or less skilled representative, or self-represents	Low Employee uses lower powered union, or self-represents	High (lawyer)	High Strong, high-level union support
Interaction Type	Becomes Contending, High escalation	Becomes Contending, High escalation	Problem solving (part contending), Low escalation	Mutual problem solving, Low escalation
	<ul style="list-style-type: none"> One side = low competency or low concern (Usually low experience, except Waste) 	<ul style="list-style-type: none"> One side = low competency or low concern 	<ul style="list-style-type: none"> High concern plus high competency, on both sides. Employee has previous experience in related areas 	<ul style="list-style-type: none"> High concern plus high competency, on both sides. Employees have previous union and/or dispute experience
Issues: (a) employee	Important interests (lose/retain job), fairness, equity and principles	Important interests (lose/retain job), fairness, equity and principles	principle, strategic personal importance, fairness	strategic collective importance, principle, precedent , fairness
(b) employer	Principle, precedent , fairness, autonomy	Principle, precedent , fairness, autonomy	Rules, precedent-setting, consistency	strategic importance, principle, precedent , fairness
Cases	Alarms Copier Gamma Redbank Retail Waste (News)	Movers Terminus Corg B Road	Corg A (News)	Blubank Fleet

11.5.1 Group (1): Meteors

Brief description: "Meteors" involve the rapid demise of the employment relationship with an escalated, fiery conflict-tinged ending; it is all over in a relatively short timeframe, with a lot of heat and energy but little by way of lasting outcomes

Key features: interpersonal conflict high-intensity critical relationship (IPC H-C); low power; contending, high escalation

The first pattern is known as the "Meteors". These involve a combination of forms of the three core constructs, each of which on its own is associated with negative outcomes. In combination, the three unfavourable inputs result in the high probability of an unfavourable outcome for the employee.

Dispute Type: The dispute involves interpersonal conflict which is of high intensity, and in a critical relationship (usually the employee's direct manager), so that the dispute is predominantly relational and personalised, affecting the whole employment relationship and bringing about a sudden, extensive decline and rapid demise

Power: The employees have low power, especially at the organisational and individual levels - if there are dispute provisions within the organisation, they are perceived as ineffective in resolving these cases. Their external power is also low, with either the low-powered union representation, or a less skilled representative, or they are self-represented.

Interaction Type: The interaction rapidly becomes one based around contending, with one side imposing a contending approach where one party prevails and other's interests are subordinated. The low level of power for the employees, combined with the contending, high escalation interaction lead to win / lose outcomes which do not favour the employee.

Typically, the employees in this category have little or no experience of dispute handling and are new to dealing with declines in their employment relationships, so they are naive and "learning as they go". In the cases observed, the employees all began with hopes for favourable resolution, and somewhat naïvely started with attempts at in-house dispute handling, but then went through an unfolding process of sudden realisations, with shocks and surprises as they came to discover the reality of their situation.

At least one side of the dispute has a very influential party with significantly low competency and/or low concern. For the employee, the issues at stake consist of important interests, particularly losing or retaining their job, as well as principles associated with fairness, equity and respect. For the employer, the issues centre of on matters of principle, precedent, fairness and their autonomy to control the organisation.

11.5.2 Group (2): Erosion

Brief description: "Erosion" involves a gradual change in the employment relationship, with a series of events which cumulatively lead to a slow but consistent relationship decline. In the later stages, this culminates in a comparatively low-key ending, unlike the relational "heat" in the meteors

Key features: company decision – cumulative (CD-C), interpersonal conflict low-intensity (IPC L-C); low employee power; contending, high escalation

Erosion cases also involve a combination of forms of the three core constructs, each of which, on its own, is associated with negative outcomes. In combination, the three unfavourable inputs again result in the high probability of an unfavourable outcome for the employee.

Dispute Type: There are two types of dispute involved in this category;

- (a) Company decision – cumulative (CD-C), that is a series of comparatively smaller company decisions in which the employee perceives that they have not been treated favourably. Over a period of time as these incidents gradually accumulate, the employee's perception of the organisation changes and the employee comes to believe that there is no point remaining as the company cannot be trusted; it seems these types of behaviour are likely to continue as the employee perceives that the company does not value its employees, in general
- (b) Interpersonal conflict, of lower intensity but in a critical relationship (IPC L-C), where single incidents may not be of major significance, yet the ongoing sequence of incidents cumulatively affects the employment relationship.

With both these types of dispute, the overall employment relationship is eventually affected, leading to the demise of the relationship.

Power: The employees have low-power, especially at the organisational and individual levels; if there are dispute handling provisions within the organisation, they are perceived as ineffective in resolving these cases. The employee's external power is also low; typically they have either low-powered union representation, or they are self represented

Interaction Type: Based on their prior experience, the employees in this category do not attempt in-house resolution using internal third parties. The interaction becomes predominantly contending, as one party dominates with a contending approach, and this is accompanied by high escalation. The low level of power for the employees, combined with the contending, high escalation interaction lead to win / lose outcomes which do not favour the employee.

Due to the longer time frame over which this type of dispute sequence involves, the employees come to have experience of disputes from either their own involvement, and/or experience with other

colleagues who have been involved in disputes with the employer. As a consequence they are well aware of their situation, and so are "pacing" the moves for their eventual departure. The employees realise their low power and their inability to change their employment situation, but they do have the option of waiting and planning their exit, rather than engaging in some sudden, reactive response, which therefore may put them in a slightly better position (compared to a rushed or forced exit)

Even if the employees "win" in the short term with mediation outcomes that are favourable, or partially favourable, for this specific issue, nonetheless the already-existing deterioration of the relationship, combined with their lower level of power, and the contending, high escalation type of interaction, together mean that the employees "lose" in the long-term, as the employee has little influence, and the employer is perceived as not being willing to be fair, or value employees.

11.5.3 Group (3): Torts

Brief description: "Torts" are narrowly focused, involving higher level legal action with regard to just one specific aspect of the employment relationship. The employee pursues this through the use of a lawyer, but the specific disputed issue forms only one part of the employment relationship, and the remainder of the relationship continues comparatively unaffected

Key features: company decision – single (CD-S); high employee power; problem solving, low escalation

Dispute Type: the dispute involves a Company Decision – Single (CD-S), that is a single decision by the company which is disputed, without a lengthy history of prior disputes, and consequently, only one part of the employment relationship is affected, while the remainder of the relationship is relatively unaffected, and so continues on an ongoing basis

Power: The employee has high-power, at the organisational and external levels. If there are dispute handling provisions within the organisation, they are perceived as effective, although they may not necessarily be successful in resolving the specific issue involved in the case. The employee's external power is high, as their previous general experience of the legal system, equips them with an awareness of the dynamics involved, allowing them to engage a well qualified and skilled lawyer.

Interaction Type: The interaction is only contending with regard to the one narrow issue, and even then it only uses the low-level tactics of pursuing the matter through legal channels, so that overall, a problem-solving approach predominates throughout the remainder of the employment relationship, allowing the relationship to be preserved.

The employee generally has high competency as do most of the other representatives on both sides. The issue under dispute is a matter of principle and fairness, with considerable strategic importance for

the individual, (but not collective importance).

Interestingly, the case of News is perhaps an outlier, which represents a combination of Torts and Meteors. It involves the same relational type of dispute as the Meteors, with the more rapid decline of the relationship, leading to its termination. However, like the Torts employee, the News employee also has higher levels of power, including individual-level power from his position and his skills which allow him to “set the exit price”. The employee also has previous experience of the broader legal system, resulting in the use of lawyers for external power, and using the legal system in a dispassionate, calculated way, rather than the more acrimonious, escalated interaction with the Meteors.

11.5.4 Group (4): Battle of the Giants

Brief description: “Battle of the Giants” disputes are typically between two large collective groups, the union and the employer. The issues are less threatening for the individual employees at the centre of the dispute, who are strongly supported by a powerful collective group (union). The issues under contention are of strategic significance for the employer and the union, with the result that it is largely the “union’s dispute”, rather than a matter for just the individual employee.

Key features: interpretation (INT); high employee power; problem-solving, low escalation

Dispute Type: A “Battle of the Giants” dispute centres on the interpretation of a collective rule which affects a large number of people. From the point of view of the employee at the centre of the dispute, it is largely depersonalised, affecting the larger collective group rather than the particular individual. Therefore, it tends to be the “union’s dispute”, and a test case, rather than just the “employees own battle”, for the particular individual. The focus is on debating and defining collective rules, related to the formal Collective Agreement. The individual employee at the centre of the dispute is likely to continue their relationship at the end of the dispute

Power: The employees have high power, especially at the organisational and individual levels. Within the organisations, there are typically well-established protocols for handling disputes, and interacting with the union. These protocols and procedures are perceived as effective, even if they do not fully resolve the specific issue under contention in a particular case. There is a high level of conflict legitimacy and acceptance of the union’s involvement in the organisation. The employees’ external power is high, with significant support and resource and from the union, often including national-level representation

Interaction Type: Overall the predominant approach consists of mutual problem-solving, although there can be multiple levels of dispute handling, (given the size of the organisations involved) with varying

approaches at the different levels.

Typically the employees have long-standing relationships with the union, and may have some prior experience of disputes, even if this is not first-hand. This also equips them with significant clarity about the outcomes that they want, and the dynamics of disputes. For the employee, the issues at stake affect only a part of their job, whereas the issues are of greater significance for the employer and the union, in terms of their strategic significance in interpreting and setting rules which will determine matters for the future.

The employer and union parties are also involved in ongoing, long-term relationships. Usually there are influential individuals on both sides of the dispute with high dispute handling competency, and in general the parties have a high concern for relationships. The level of escalation overall is low, although there can be phases or components which involve escalation.

11.6 Predictive Power of the Model

The interplay of these three core constructs in this model offers considerable explanatory and predictive power for employment disputes. Each of the core constructs on their own provides some indication of the dynamics that are likely to ensue in the course of a dispute. The combination of the three constructs, jointly, allows detailed prediction of the likely course of a dispute, and also of the possibilities (or otherwise) for intervention.

11.7 Links with the Existing Literature

11.7.1 Traditional Grievance Literature

The international literature has tended to focus on two main areas. The first concerns the stage of grievance initiation, where in later years work has focused on the behaviours of the parties, and economic-based models of employee decision-making. The foundational classic is Hirschman's (1970) model, and while much of the subsequent theoretical development has refined and expanded this, the emphasis has remained largely on the employee's initial decision of whether to initiate grievance action or not. The second area focuses on the post-grievance outcomes, and the various attempts to explain the documented negative outcomes for employees and their supervisors who are engaged in grievances, particularly the effects in the areas of decreased performance, promotion, attendance, and increased exit (Klaas and De Nisi, 1989, Lewin, 1987, Lewin and Petersen, 1988, 1999, Olson-Buchanan, 1996). One stream focuses on the potential explanation offered by manager actions, with

the possibilities of punishment and retribution from employers (Klaas and De Nisi, 1989), while other approaches consider aspects such as the potential effects of the initial incident on the employee from this experience of perceived mistreatment (Boswell and Olson-Buchanan, 2004), and the variety of ways in which employees may take action to address problems, including less formal avenues (Luchak, 2003, Olson-Buchanan and Boswell, 2002).

The classic portrayal of the grievance decision can perhaps be paraphrased an initial choice between the options of inaction (including suffering in silence), or taking dispute action through either formal or informal avenues, or finally making an exit from the organisation. The present study worked from a significantly different perspective from much of the research cited in the earlier review though. Firstly, the fact that access to participants could only be made at the point of mediation meant that, in terms of sampling, all cases involved situations where the employees had taken what could be classed as more formal grievance action, using an external agency's mediation services action to attempt to resolve their disputes. This meant therefore that there was no comparison with employees who simply chose other options, such as exit, or inaction, or who resolved their employer relationship problems successfully through more informal measures. However, among the cases studied, many did attempt less formal methods of resolution in the pre-mediation stages, especially involving the assistance of an external third-party.

In terms of the comparisons with economic-based decision models then, there were some similarities. The literature includes the labour market related models of Cappelli and Chauvin (1991), and Bacharach and Bamberger's (2004) subsequent model which also includes "labour power", which draws upon power-dependency theory as an influence on the employee's initial decision to file or not. In the present study, the labour market related factors were perceived as having some influence on employees' decisions, particularly serving as a disincentive to leaving the organisation. The notion of "labour power" resulting from power-dependency theory (Bacharach and Bamberger, 2004) does also have links with the expanded concept of power used in the present study. The decision-making model for both parties was often referred to as a cost benefit model, similar to that proposed by Cappelli and Chauvin (1991), however the factors involved in the decision for the participants in the study, were considerably broader than those proposed in the earlier research.

In terms of decision models however, in the cases studied, there was no mention of the concept of "loyalty". The closest concept which did emerge was perhaps the employee's attachment to the job, and enjoyment of the job, which served as disincentives to exit. Given the extensive literature which has developed over the last decade concerning the 'death of the corporate career' (Arthur et al., 1999, Arthur and Rousseau, 1996), it would seem very questionable as to whether "loyalty" in this sense, is a relevant factor in the "new economy" that now exists. Potentially the variables identified in the present study which tend to focus more on the direct benefits for the individual, rather than any kind of long-term allegiance to a company, are much more consistent with the contemporary careers literature. That

literature could provide a more relevant benchmark for assessing the validity of the proposed decision models than older a priori constructs which originally emerged from the earlier economics literature.

11.7.2 Distinctive features of the current research

The current study was distinctive in terms of its inductive approach, and the fact that it focused on the individual, rather than aggregate-level, of exploration, leading to a radically different perspective on employment disputes. Perhaps the most significant contribution however, comes from its longitudinal perspective of dispute processes. Not only did the parties in this study take action to attempt to resolve their disputes, but in virtually all cases the employees took multiple forms of action. Most importantly then, for these employees, grievance activity was not a simple 'one-off choice' between the options of firstly, taking action to resolve their disputes, and the second option of leaving the relationship through an exit.

Instead there was a process, with a series of attempts at resolution and an accompanying series of decisions. The process typically began with the choice regarding whether or not to use lower-level informal resolution attempts, but when these were not successful, the employees persisted and progressed on through a sequence of other moves which eventually reached external mediation. Throughout this process, there were a series of options and variety of decisions made, with the final decision frequently being a choice to exit, even though the earlier choices had been quite different from this. Accompanying this notion of a process, is also the fact that employees' awareness of the situation was not a static matter, but rather involved a growing realisation as the dispute unfolded through various stages.

To some extent then, the existing grievance literature and the present findings are not directly comparable. The existing literature reviewed earlier is largely deductive, based around the operationalisation of a small number of a priori variables, and that approach stands in marked contrast to the inductive approach of the current research. There are some consistent, recurring variables such as the possibility of employer retribution, which occur in the present study and the existing literature. However, the present study produced a set of variables for employee decision-making which are part of a longer process with the full progression of a dispute sequence, rather than the single initial choice focused on in the existing literature. The participants in this present study did not isolate their initial decision, but rather outlined a sequence of decisions and variables involved in that longer process.

One key question that underlies any comparisons is whether the current research based in a New Zealand setting was examining the same phenomena as occurs in other settings such as North America. Are the dispute events in these two settings perhaps different? The answer to this may be

both yes and no. On one hand, given the very different and rather unique nature of the New Zealand system, it is likely there are some aspects which may be peculiar to this particular context. This could well limit the extent to which the present findings can be generalised. At the same time though, there are strong indications in the literature that some of the key aspects of the current research are potentially common to both settings. The most important of these is the framing of disputes as processes, rather than single events. While this would require further investigation, the indications are that disputes in other jurisdictions may well be best examined as processes, and that the broader insights from this current research may well have relevance in those other settings. Although the finer details such as the actual variables involved influencing the decisions and approaches may vary from one setting to another, the conceptualisation of disputes as processes may be a much more generic and widely applicable feature.

The current research also adds the dimension of employer decisions, especially when these occurred in parallel as part of the same dispute, and has resulted in the proposed model of employer decision making. The case-based research model also permitted tracing the action and interaction of the two main parties, with the mutual influence that these had on each other. Thus the model is not one-sided, but rather an interactive model, including the dynamics as the dispute progresses through its stages.

The constructs derived from the current research are also particularly significant. The first of these, Dispute Type apparently acts as a major determinative influence on the course of disputes. The notion of different types of grievances is not entirely new. Klaas and De Nisi (1989) for example, differentiated between grievances filed against a superior, compared to grievances over organisational policies, finding that these were associated with differing post-grievance outcomes, such as the lower performance ratings that occurred with grievances filed against a superior. Klaas, Heneman and Olson (1991) also found that, in terms of the specific area of absenteeism, policy-related grievances were associated with different outcomes compared to disciplinary grievances. Gordon and Bowlby (1989) investigated the attributions made by employees concerning employer's actions, distinguishing between perceptions of dispositional causes for the employer's actions, and environmental causes, finding that dispositional causes were associated with greater likelihood of initiating a grievance. It would seem that the proposed construct of Dispute Type may well be compatible with these earlier findings, with the negative outcomes in Klaas and De Nisi (1989) for example, being similar to the relational nature of 'interpersonal conflict'. Similarly, the dispositional causes discussed in Gordon and Bowlby (1989) bear some resemblance to the phenomena captured under the classification of 'interpersonal conflict'.

The current proposed construct of Dispute Type however, goes well beyond these existing distinctions. The construct is grounded in the participants' perceptions of their disputes, and rather than being focused on a single specific aspect of grievance behaviour, it is framed as having a significant influence on the overall, ongoing dynamics of disputes. The proposed construct has considerable

potential explanatory relevance. Firstly, it would seem that the nature of the dispute has such a significant influence that it tends to predetermine the types of outcomes that are likely to occur, and this is most noticeable in the cases where there is a major deterioration of the employment relationship. Secondly, associated with this, employee choice is to some extent shaped by the nature of the dispute; for example, the dynamics associated with interpersonal conflict mean that the chances of resolution are typically very low, and therefore employees are much more likely to decide to exit the organisation in this type of dispute.

The notion of Dispute Type may also provide some insight regarding the puzzle of post-grievance outcomes. With cumulative, company decision disputes, the final exit chosen by the employee may not necessarily be so much a product of retribution or punishment following the grievance, but rather this can be framed as simply being part of a longer process of relationship decline, leading to this final outcome. Interestingly, among the cases involved in the current study, there was a marked difference between potential, versus actual, retribution. While in a number of cases, the possibility, or a very strong perceived likelihood of retribution, influenced employee decisions regarding dispute action, among the cases where employees had actually taken grievance action and subsequently returned to work, none involved situations where the employees explicitly indicated that they had actually experienced any form of retribution or direct punishment for their grievance actions.

The construct of Power is both new and old. While there is an extensive literature on Power in certain fields, there has only been limited attention paid to “episodic” aspects of power in processes such as bargaining. The present research draws on the work summarised by Lawler (1992), and Kim et al. (2005) and seeks to integrate findings from the bargaining literature into the current proposed model. A notable contribution of the present study is to now draw attention to the specific role that this construct plays in employment disputes, which appears to be particularly significant. Power serves as a major influence on the course of disputes, and the identification of the various sources of power proposed in this model, provides a coherent explanation of one of the main variables driving the overall dispute sequences. At the same time, a dynamic model is inductively developed and this subsequently proved to be highly consistent with the empirically based models of Lawler (1992) and Kim et al. (2005), expanding on those models in identifying the dynamics specific to employment disputes. Although it was not a focus of the present study, the influence of power may also account for some of the unexplained findings observed in earlier research, and so offers the potential for further exploration through more deductive approaches. In addition, the notion of an organisational level of power provides greater differentiation of employment situations, which vary according to the extent to which employees are either vulnerable to, or protected from, retribution when taking dispute action.

Similarly, although the theory associated with social conflict is a well established area of research, this has not featured as a major part of grievance research previously. The application of this theory, and particularly the Dual Concern model (Pruitt and Kim 2004) with the notions of escalation, tactics and

strategies, offers considerable explanatory power and relevance for the more dynamic representation of dispute behaviour. Thus the current research does add the social conflict literature as another stream which is applicable to the field of grievances.

Perhaps one of the most significant and intriguing aspects of the current research concerns the possible reframing of the traditional concepts of grievance research in relation to Hirschman's (1970) concept of "loyalty". The traditional perception of grievances involves the question of whether or not an employee will take grievance action; in this, "loyalty" is framed as the independent variable, while grievance action is a dependent variable, and as the research has evolved, the focus has moved to specific questions such as "what kind of action does a loyal employee take" (Luchak 2003).

The present research effectively reframes this issue, addressing the question of, "when an employee is attached to their job and wishes to stay there, what drives the sequence of dispute actions that the parties pursue" – or, in other words, "what influences the course of an individual-level employment relationship problem?". As mentioned, in the current research, the notion of the 'type of grievance action', which was previously typically conceptualised as a single action, is now reframed as a sequence involving multiple actions, or more correctly, interactions.

Importantly, Hirschman's (1970) concept of "loyalty", which in employment contexts had traditionally been interpreted as 'loyalty to an employing company', is replaced in the present research with the notion of liking one's job and *desiring to remain* there, in that role and that relationship. Although employees did not mention the traditional notion of "loyalty" such as is associated with the lifelong career in one organisation, they typically discussed the extent to which they were often strongly *attached* to their current job, and this attachment provided the impetus for their attempts to resolve problems and remain in that employment relationship.

In terms of dependence theory, such 'attachment' represents placing high value on the current employment relationship (outcome value), and usually a low value on alternatives (outcome alternatives). For the employee, this translates into a high level of dependency on the employer - however, a key finding of the present research, is that this perspective is not reciprocated by the employer. Instead, these differing levels of dependency produce an asymmetrical power relationship, with the employer holding relatively greater power. Therefore, when the two parties confront one another and present their conflicting interests, in terms of power, the employee is at a disadvantage, unless they can draw upon power from the three proposed sources, organisational, individual, and external, in order to restore the power balance and to protect their own interests.

This reconceptualisation of Hirschman's "loyalty" is significant, and it can be argued as having strong similarities to the original formulation in a consumer-based setting. Although Hirschman provided little definition of the term "loyalty", its function in that type of consumer-based setting, is very much one of

attachment to a particular product, rather than the concept of patriotism and 'unswerving loyalty' that has previously unfolded in the grievance research. Importantly, if "loyalty" is therefore reconceptualised in the revised manner suggested by the present research, then it is strongly compatible with both the model that is derived from this research, and also it provides linkages with the very significant construct of Power and the underlying power-dependency model. This then presents a possible new perspective of "loyalty" for grievance research, which is still linked to Hirschman's model, but applied in a significantly different manner which is potentially more compatible with the "new economy" (Arthur et al. 1999).

11.7.3 Organisational Justice

If one accepts Bemmels and Foley's (1996) largely unchallenged propositions from their review and summation of research in the field, then it is perhaps futile to seek one single theoretical model to cover the whole field. One area which does need some comment however, is the field of organisational justice. At various points during the current study, this literature was considered in terms of its relevance. Intuitively, it would seem to have considerable potential relevance.

At a general level, the broad outline of the dispute processes identified in the current study corresponds to a number of aspects from the organisational justice literature. The initial incident which forms the basis for the dispute, for example, can be considered as an experience of injustice. As noted, "Justice" also formed one of the higher level variables, involved in the decision-making of both of the main parties. The parties' subsequent attempts to rectify perceived 'wrongs' that they have experienced, potentially also form other attempts at obtaining justice, with varying degrees of success.

Within individual cases, at times there were aspects of a party's behaviour which could be construed as having direct relevance to an organisational justice perspective. Instances such as Redbank where the employee perceived that the employer appear to act in a predetermined manner, being unwilling to objectively consider the issues, can be construed as failures of justice. A number of other employees make similar comments regarding the conduct of the employers and/or the employers' representatives, particularly regarding the employers' apparent unwillingness to attend to the employees' complaints in a "fair", objective manner, and to deliver "just" outcomes, during the various contacts between the two sides to the disputes. More specifically, the experiences of the parties can be interpreted partly in terms of each of the three types of justice; distributive justice referring to the outcomes of a process, and procedural justice referring to the methods, mechanisms and processes used to determine outcomes, while interactional justice refers to aspects of social conduct with implications for other people's dignity (Folger and Cropanzano, 1998). The organisational justice literature also has clearly established links between failures of dispute systems and outcomes such as employee anger, lowered

performance and employee exit, which could potentially be relevant (Conlon et al., 2005, Olson-Buchanan, 1996).

There is however, a significant difference between intuitive links with the topic, and the actual data available. While organisational justice does have considerable potential relevance for the topic of employment disputes, the actual data in this study did not strongly lend itself to such a framework. In the interviews, the participants outlined the progression of their disputes, and the discussions focused on *how they responded to* matters that the parties believed were unfair or unjust - rather than *why* the parties perceived a matter as unjust, with the latter being a central concern of the organisational justice literature. As an academic, I was well acquainted with the organisational justice literature, however I deliberately tried not succumb to the temptation of imposing my own framework, and instead attempted to ensure that informants could give their perspective - including information which may not have fitted within such a predetermined framework. The parties to the disputes placed lesser emphasis on the manner in which their disputes were addressed within particular stages of the disputes and instead, they were more concerned with the dynamics of the *ongoing* interactions with the other party. Although there were some obvious connections with the organisational justice literature, these were not sufficient to make this a main framework, nor to go into application of the organisational justice theory in detail. At the stage of analysis, attempting to pursue this theoretical stream in depth would have been speculative, rather than grounded in the data. Therefore, although the organisational justice literature does make a partial contribution to understanding the phenomena, its relevance is however limited. The construction of the issues is more consistent with the conflict literature than the organisational justice literature. Interestingly, it is the employer who possesses this ability to provide, or fail to provide, proceedings which are just or unjust. This feature thus re-emphasises the differing power of the employer compared to the employee.

11.7.4 Summary

Overall then, the model of dispute behaviour offered from the current study results from the broader exploratory, inductive approach utilised, leading to a very different conceptualisation of the dispute processes. Disputes are framed as being much more of a sequence, with processes involved, which are driven largely by the three core constructs proposed from the research. At the same time however, it is necessary to place some very clear caveats on this. The most significant is that the sampling was, by necessity, very restricted. This field of disputes and grievances is a very difficult area to get access into, and in the present study this meant that the sampling was restricted to cases that had proceeded as far as external mediation. The comments from participants indicated that where organisations had a range of other employee disputes, many of these were resolved in very different ways, often at much earlier stages and without needing recourse to external mediation.

It is therefore difficult to assess to what extent the findings from the present study could therefore be generalised to other forms of disputes which do not proceed to external mediation. However, the findings from the limited amount of other New Zealand research may suggest that these cases are perhaps comparable to other cases. Although the other research is now somewhat dated and used different methodologies, earlier studies indicated that in general, there was little evidence of successful resolution at the company level (Department of Labour, 2000). Potentially therefore, the current cases may not necessarily be too atypical, in terms of the absence of successful resolution within the employing organisations.

11.8 Implications for Policy and Practice

11.8.1 Introduction

The present research suggests a variety of avenues for intervention in terms of policy and practice. The topic is far from straightforward though, with any proposals needing to be seen in the context of the wide variety of organisations that exist in New Zealand and the many practical limitations associated with this. As a consequence, this discussion will be structured in terms of the core constructs, focusing on a series of principles, rather than specific, single practices and solutions.

In terms of framing the topic, it is relevant to once again note that, this research only covered cases which had gone to mediation, and so did not include cases which were resolved earlier, within organisations. A number of employers reported that their organisations were generally successful in resolving the majority of employment problems, however the current cases were not as easily resolved (for reasons which they proposed). The applications therefore, have to be derived from what occurred with this particular group of cases.

In general, it would seem that the conventional wisdom that early intervention is best, is still valid, as this involves acting while the relationship is still viable, and most importantly, it effectively seeks to avoid the harmful effects of significant escalation. The question however, is what form such action should take.

11.8.1.1 Dispute Type

The starting point concerns the effects of Dispute Type, with each type having a different course. Firstly, with interpersonal conflict (IPC), there is only a short 'window' of opportunity for intervention, as the dispute sequence is usually rapid, with a sudden decline; once the parties perceive the conflict as being clearly personalised (interpersonal), and the conflict has escalated, there is little chance of reversing this. In general terms, any intervention needs to occur early, focusing on avoiding becoming personalised, and preventing escalation.

In contrast, with a company dispute (CD), there is a much longer timeframe, and the rate of decline associated with a specific disputed issue is usually slower, with the result that there can be more opportunities for intervention before the overall process expands into a sequence of separate disputed issues, forming a company-decision-cumulative (CD-C) type. Early, satisfactory resolution of a specific disputed issue may avoid further damage in a relationship. However, once a series of disputes does reach the point where significant cumulative change has occurred in a relationship (CDC), then there are significantly limited chances of restoration, and the path towards relationship termination is also largely predetermined.

Interpretation disputes are largely influenced by the existence of protocols and official procedures for dealing with issues. When these are present, the cases in the present study illustrated that the matters can potentially be resolved with minimal harm to the ongoing employment relationship.

11.8.1.2 Power

In terms of Power, power-dependency theory suggests that a crucial issue is the extent to which a party is valued, or is replaceable, in the employment relationship. On one level, labour market factors will affect this equation, and that is not an aspect that is easily remedied. More broadly however, this also involves the culture of the organisation and the extent to which it values its employees, for example. A key point emerging from the present research is that disputes do not exist in isolation, but rather there are often symptomatic of the broader culture of an organisation, as exemplified in the wide variety of "orientations" demonstrated in the cases study. This implies that simply adding on additional procedures, such as writing up official dispute processes, are unlikely to be effective on their own. Conflict-handling is a reflection of the overall culture of the organisation, and so there is a need to address that whole culture.

At the organisational-level, the present study raises some significant questions concerning the true effectiveness of the procedures for dealing with individual-level disputes, in New Zealand organisations. There was a major discrepancy between what officially existed "on paper", compared to how those procedures were perceived as functioning in practice, from the perspective of employees. While the legislation required employers to have a procedure for dealing with employment relationship problems, and all but one of the companies claimed to have such systems, in contrast, from the employee's perspective, the situation was very different, and often the systems were perceived as being neither valid nor effective. This phenomenon may not be restricted to the cases involved in the present study. In recent years, it would seem there has been little evidence of successful resolution systems in organisations (Department of Labour, 2000).

There are numerous benefits that can result from having effective systems in organisations. These include resolving conflict and lowering employee discontent (increased employee satisfaction), reducing unwanted turnover, increasing the trust between the parties, providing a source of information and feedback from management so as to permit early identification and action concerning the areas of conflict, as well as identifying systemic problems relating to weaknesses in company policies, practices, and management teams. One significant element of this is the ability to "pinpoint weak or poor supervisors" (Boroff, 1991, p.209). In general, such systems allow proactive approaches, rather than the more common after-the-fact attempts at managing conflict, once it has already begun to escalate.

In practice though, numerous participants in the cases studied perceived that the supposed 'systems' in their organisations lacked credibility as they did not really offer an employee a fair opportunity to present their issues and have them considered objectively. Furthermore, the supposed "systems" were also not perceived as being safe; there was a perception that the act of using such procedures would create negative long-term impacts for the employee.

This highlights the complexity of addressing such difficulties, and setting up truly effective systems, given the fact that the effectiveness of such systems is strongly linked to the overall culture of the organisation, and particularly the approach to conflict, or disputes raised by employees. While most systems may meet Feuille and Delaney's (1992) criteria for formal systems, such as specifying the employee's rights, providing some information about the process, and detailing the process in the company's protocols, on their own, these factors do not guarantee that a process will be effective.

One of the critical questions, in the New Zealand context, concerns identifying parties who are able to provide early intervention and skilled conflict management, particularly in smaller organisations. There are reasons for arguing that it is desirable to have such intervention in-house, in order to minimise potential escalation resulting from the introduction of external third-parties.

11.8.1.3 Interaction Type

One of the crucial variables influencing the type of interaction that occurs, is the dispute-handling competency of the parties involved. In many instances, the issue is not the role of the person, for example whether they are an advocate or a lawyer, but rather the competency of the individual concerned. Again, this highlights the need for having skilled individuals, yet it also raises the dilemma of how to ensure that such persons are present in contexts such as the smaller organisations in New Zealand. 'Smaller' organisations, include not only those that are officially small-to-medium enterprises with less than 20 employees, but also a range of other smaller organisations, as well as the smaller sub-branches of large organisations which only have a limited local presence in a particular geographic area. All of these constitute situations where there are limited resources available, while relationships within those organisations are highly critical, with few alternatives if one relationship becomes problematic.

11.8.2 Recommendations:

11.8.2.1 The role of unions

There were however, some situations where effective problem resolution systems did exist. These were often associated with the involvement of unions in handling individual-level employment disputes. In the cases studied, unions performed a variety of important functions. Firstly, in several instances, unions were involved in establishing safe and credible dispute resolution systems. Over a period of time, formal procedures were developed in collaboration with employers, leading to systems that were perceived as being effective. Accompanying this, were the various informal protocols that had developed and the very effective working relationships between the individuals on both sides, both union and employers. In such contexts, unions could then serve an important role in assisting to resolve disputes, while minimising escalation. The fact that unions often had an ongoing positive relationship with an employer meant that they were not perceived as totally 'external' third parties, and so this could foster dialogue and problem solving, without setting off a spiral of power-seeking from both sides. Unions could also have the goal of seeking to maintain ongoing relationships with employers, and so could function with a high level of dispute handling competency in order to achieve this.

Unions also had the benefit of their knowledge of the organisations which enabled them to identify systemic problems, and this included being able to (attempt to) point out recurrent issues associated

with particular managers or supervisors. Lower level dispute resolution systems, including mediation, could be criticised for individualising employment problems, as these can lead to treating disputes as separate instances, when in practice they may be part of broader, more 'collective' problems in an organisation. The existence of an effective union however, could counter this by addressing such systemic problems. Unions also can typically 'know the business' that a company is involved in. In many instances, unions also have the potential to increase both the power, and also the safety, of employees, providing a low-cost source of support, and countering the individualisation that potentially disempowers employees. This is however, dependent on the nature of the relationship between the union and the employer.

At the same time, these issues need to be balanced by the fact that, in some instances unions were accused of escalating situations through the strategies that the unions adopted. Where the relationship between the union and employer is not positive, the union's involvement can however, be counter-productive. This is not solely a function of the union's approach, but also reflects the approach of the employer.

While the involvement of unions can have both positive and negative effects, it would seem overall, that there is potential to enhance the positive role that unions can play in the area of establishing systems, and dealing with the ongoing employment relationship problems that occur. Employers may wish to consider whether this is an avenue that can be developed in their own organisation.

11.8.2.2 Managers

In the present study, there were a number of comparatively inexperienced managers, who tended to exhibit low levels of dispute handling competency, which significantly contributed to the escalation of disputes. In contrast, other more experienced and competent managers could play an important role in the resolution of disputes. Again, there was wide variation in the orientations of managers in the present study. In general, managers, and particularly supervisors, have a key role in the early stages of dispute handling, often serving as the first-level of contact in dispute handling. The competencies of managers become even more critical as HRM functions become devolved throughout organisations, and so in general, the skills and knowledge of managers represent a critical area for intervention.

The first aspect of this could include communication and conflict skills, accompanied by education regarding the nature of conflict. If managers and supervisors have an understanding of conflict, then this may allow them to respond in a more informed, and less reactive manner. For example, if supervisors can come to appreciate that complaints or disagreements from employees are not necessarily personal matters, this may allow supervisors to respond in a less confrontational manner,

and so potentially reduce the likelihood of issues escalating into harmful interpersonal conflict (IPC) disputes. More broadly, education could assist in reframing managers overall perspectives of conflict, allowing them to become aware of the ways in which conflict can be used constructively, potentially leading to good outcomes for both sides, and avoiding pitched power battles. The flow-on effects of this could then lead to the reshaping of attitudes towards organisational dispute resolution systems, and perhaps even some change in the overall culture of the organisation, in terms of attitudes towards conflict.

Providing managers with accompanying skills in the areas of conflict and communication could thus allow managers to provide a more positive influence in the progress of dispute sequences, maintaining communication with employees and avoiding mutually contending interactions. In sum then, the aim would be to improve the dispute handling competency of managers. This would also represent a strategy that could be implemented in both smaller organisations, as well as larger corporate settings.

11.8.2.3 The Role of HR

The role of HR staff in individual-level employment disputes represents a truly vexed question. In the present study, in a number of cases, employees had hoped that the organisation's HR staff would become involved and so provide a more detached perspective, allowing dialogue and possibly in-house resolution. This however, rarely eventuated and there was a marked contrast between the expectations of employees, and the outcomes that eventuated. Employees sometimes knowingly took a gamble, hoping that by seeking involvement of other levels of the organisation, particularly HR and corporate staff, these parties would be outside the immediate, local problem and so be able to provide more constructive assistance. There was sometimes a hope that this would lead to a more fair way of dealing with the current problems, without needing to proceed to a forum such as external mediation. In practice though, these moves tended to simply produce unintended consequences, with significant escalation of the problems rather than resolution.

HR were often perceived as having a very different perspective, compared to line managers, with corporate HR staff sometimes perceived as simply being risk-managers. The matter is not simple though, and HR staff often highlighted the realities of resourcing, with a small number of staff being expected to cover large numbers of employees across broad geographical areas. As a consequence, the only role that they could realistically fulfil tended to be that of the short-term defenders.

In contrast however, other organisations were able to utilise their HR staff in very effective ways. In Fleet, for example, the National HR advisor was closely involved with local managers throughout the country, attempting to educate them, increasing their knowledge and seeking to change their

approaches. Similarly, Corg had purposely situated their HR staff at a local level, in order for them to be more aware of the people and the issues in a local area, and to allow them to deal with issues in a more proactive manner. Issues such as allegations of bullying, or recurrent disputes involving a particular manager, could be investigated by the local HR staff, and remedial action could be implemented to deal with such problems.

One potential avenue for low-level dispute handling, which would seek to remain in-house and so reduce problems of escalation and potentially retribution, could be to utilise this type of HR involvement in other organisations. It needs to be clear, that while HR could have the potential to genuinely investigate problems, they do not constitute an independent third party and so could not be called upon as 'mediators'. The role of HR however, could permit them to identify systemic problems, such as problematic managers. This again highlights the significance of the behaviour of managers, especially with regard to the allegations of victimisation and personalised conflict with specific employees, which occurred in the present study. While education and training may well be important for managers, this may not be enough on its own. There may also be a need for organisations to have very clear, independent systems for monitoring and identifying problematic issues associated with individual managers, and dealing with these. A key question for organisations, is to evaluate the extent to which they do have effective feedback and monitoring systems which would allow them to be aware of potential bad management by local managers, and whether they have effective systems in place to deal with these.

Such a role would obviously require appropriate resourcing, and this could represent some expense for organisations. At the same time though, this needs to be weighed up against the costs that accrue from the adverse effects of conflict and disputes, particularly in terms of areas such as morale and undesirable turnover. The opportunity for implementing this sort of strategy in smaller organisations is likely to be limited. Furthermore, there would also be a difficult balancing act, with HR needing to be careful that they do not undermine the role of local managers.

11.8.2.4 External parties

For employees, the perceived absence of credible and safe in-house systems, and the belief that there were no alternatives available within the organisations, often led employees to use external parties, assuming that these were the only option available to them. This then leads to undesirable escalation and further damage to the employment relationship. The sequence was not unique to employees though, with employers often responding in-kind and bringing in their own external, third-party representatives, which also contributed to the escalation of disputes.

This phenomenon highlights the importance of the dispute handling competency of third parties. Moreover, for both employers and employees, there is a need for greater awareness of this variable as a criterion for selecting representatives. Employers may sometimes be aware of the range of approaches used by different representatives, and select parties in order to match the style of approach that they themselves are seeking. Employees however, seem to lack such awareness. In general, parties need to be aware of the different dynamics that can result from the involvement of external third parties, and particularly the competency that a party brings.

References

- Allen, R. E. & Keaveny, T. J. (1985) Factors Differentiating Grievants and Nongrievants. *Human Relations*, 38, 519-534.
- Arthur, M. B., Inkson, K. & Pringle, J. K. (1999) *The New Careers : Individual Action and Economic Change*, London, Sage.
- Arthur, M. B. & Rousseau, D. M. (1996) *The Boundaryless Career As a New Employment Principle*, Oxford.
- Bacharach, S. & Bamberger, P. (2004) The power of labor to grieve: the impact of the workplace, labor market, and power-dependence on employee grievance filing. *Industrial and Labor Relations Review*, 57, 518-539.
- Bacharach, S. B. & Lawler, E. J. (1981a) *Bargaining: Power, Tactics and Outcomes*, Jossey-Bass.
- Bacharach, S. B. & Lawler, E. J. (1981b) Power and tactics in bargaining. *Industrial and Labor Relations Review*, 34, 219-233.
- Bemmels, B. (1994) The determinants of grievance initiation. *Industrial and Labor Relations Review*, 47, 285-301.
- Bemmels, B. & Foley, J. R. (1996) Grievance procedure research: A review and theoretical recommendations. *Journal of Management*, 22, 359-384.
- Bemmels, B., Reshef, Y. & Stratton-Devine, K. (1991) The roles of supervisors, employees and stewards in grievance initiation. *Industrial and Labor Relations Review*, 45, 15-30.
- Blackwood, L., Feinberg-Danieli, G. & Lafferty, G. (2005) Unions and Union Membership in New Zealand: Annual Review for 2004. *New Zealand Journal of Employment Relations*, 30, D1.
- Boroff, K. E. (1991) Measuring the perceptions of the effectiveness of a workplace complaints procedure. *Advances in Industrial and Labor Relations*, 5, 207-233.
- Boroff, K. E. & Lewin, D. (1997) Loyalty, voice, and intent to exit a firm: a conceptual and empirical analysis. *Industrial and Labor Relations Review*, 51, 50-63.
- Boswell, W. R. & Olson-Buchanan, J. B. (2004) Experiencing mistreatment at work: the role of grievance filing, nature of mistreatment, and employee withdrawal. *Academy of Management Journal*, 47, 129-139.
- Bourgeois, L. J. I. & Eisenhardt, K., M. (1988) Strategic decision processes in high velocity environments: four cases in the microcomputer industry. *Management Science*, 34, 816-825.
- Brown, S., Frick, B. & Sessions, J. (1997) Unemployment, vacancies and unjust dismissals: the cyclical demand for individual grievance procedures in Germany and Great Britain. *Labour: Review of Labour Economics and Industrial Relations*, 11, 329-349.
- Cappelli, P. & Chauvin, K. (1991) A test of an efficiency model of grievance activity. *Industrial and Labor Relations Review*, 45, 3-13.

- Cartwright, D. (1959) A field theoretical conception of power, in Cartwright, D. (Ed.) *Studies in Social Power*. Ann Arbor, Michigan, University of Michigan.
- Chamberlain, N. W. (1951) *Collective Bargaining*, McGraw-Hill.
- Colvin, A. J. S. (2003) The dual transformation of workplace dispute resolution. *Industrial Relations*, 42, 712-735.
- Conlon, D. E., Meyer, C. J. & Nowakowski, J., M. (2005) How does organisational justice affect performance, withdrawal, and counterproductive behaviour? , in Greenberg, J. & Colquitt, J. (Eds.) *Handbook of Organizational Justice*. Routledge.
- Corby, S. (2000) Unfair dismissal disputes: a comparative study of Great Britain and New Zealand. *Human Resource Management Journal*, 10, 79-92.
- Cresswell, J. W. (1997) *Qualitative Inquiry and Research Design: Choosing among the Five Traditions*, Sage.
- Cullinane, J. & Donald, D. (2000) Personal Grievances in New Zealand. in Burgess, J. & Strachan, G. (Eds.) *Research on work, employment and industrial relations conference 2000; Proceedings of the 14th AIRAANZ Conference* Newcastle, Australia.
- Dahl, R. (1957) The concept of power. *Behavioural Sciences*, 2, 201-215.
- Denzin, N. K. & Lincoln, Y. S. (1994) Introduction: the discipline and practice of qualitative research, in Denzin, N. K. & Lincoln, Y. S. (Eds.) *The Handbook of Qualitative Research*. Sage.
- Denzin, N. K. & Lincoln, Y. S. (2000a) *Handbook of Qualitative Research 2e*, Sage.
- Denzin, N. K. & Lincoln, Y. S. (2000b) Introduction: the discipline and practice of qualitative research, in Denzin, N. K. & Lincoln, Y. S. (Eds.) *Handbook of Qualitative Research 2e*. Sage.
- Department of Labour (2000) Survey of employment disputes and disputes resolution. Wellington NZ, Department of Labour - Employment Relations Service.
- Department of Labour (2002a) The Employment Relations Act: A summary of the first eighteen months (2 October 2000 to 31 March 2002). Employment Relations Service, Department of Labour.
- Department of Labour (2002b) The Employment Relations Act: a Summary of the First Two Years (2 October 2000 to 30 September 2002). Wellington, Department of Labour.
- Department of Labour (2002c) Ministerial Briefing. Wellington.
- Department of Labour (2002d) The Process of Dispute Resolution - A Qualitative Study Amongst Employees & Employers. Employment Relations Service (ERS).
- Department of Labour (2003a) Department of Labour Annual Report 2002/2003. Wellington, Department of Labour.
- Department of Labour (2003b) Evaluation of the Short-Term Impacts of the Employment Relations Act 2000. Department of Labour, NZ
- Dutton, J., E. & Dukerich, J., M. (1991) Keeping an eye on the mirror: image and identity in organizational adaptation. *Academy of Management Journal*, 34, 517-554.
- Dyer, W. G. J. & Wilkins, A., L. (1991) Better stories, not better constructs, to generate better theory: a rejoinder to Eisenhardt. *Academy of Management Review*, 16, 613-619.

- Eden, G. (1994) Reinstatement in the non-union sector: an empirical analysis. *Relations Industrielles*, 49, 87-101.
- Eisenhardt, K., M. (1989a) Building Theories from Case Study Research. *The Academy of Management Review*, 14, 532-550.
- Eisenhardt, K., M. (1989b) Making fast strategic decisions in high-velocity environments. *Academy of Management Journal*, 32, 543-576.
- Eisenhardt, K., M. (1991) Better stories and better constructs: the case for rigour and comparative logic. *Academy of Management Review*, 16, 620-627.
- Eisenhardt, K., M. & Graebner, M., E. (2007) Theory Building from Cases: Opportunities and Challenges. *Academy of Management Journal*, 50, 25-32.
- Feuille, P. & Chachere, D. R. (1995) Looking fair or being fair: Remedial voice procedures in nonunion workplaces *Journal of Management*, 21, 27-42.
- Feuille, P. & Delaney, J. T. (1992) The individual pursuit of organisational justice: grievance procedures in non-union workplaces. *Research in Personnel and Human Resources Management*, 10, 187-232.
- Feuille, P. & Hildebrand, R. L. (1995) Grievance procedures and dispute resolution, in Ferris, G. R., Rosen, S., D. & Barnum, D. T. (Eds.) *Handbook of Human Resource Management*. Blackwell.
- Folger, R. G. & Cropanzano, R. (1998) *Organizational Justice and Human Resource Management*, Sage.
- Freeman, R. B. & Medoff, J. L. (1985) *What do unions do?* , New York, Basic Books.
- French, J. R. P. & Raven, B. (1959) The Bases of Social Power, in Cartwright, D. (Ed.) *Studies in Social Power*. Ann Arbor, Michigan, University of Michigan.
- Gallunic, D. C. & Eisenhardt, K., M. (2001) Architectural innovation and modular corporate forms. *Academy of Management Journal*, 44, 1229-1249.
- Gersick, C., J. (1988) Time and transition and work teams: toward a new model of group development. *Academy of Management Journal*, 31, 9-41.
- Gersick, C., J. (1994) Pacing strategic change: the case of the new venture. *Academy of Management Journal*, 37, 9-45.
- Glaser, B., G. & Strauss, A. (1967) *The discovery of grounded theory: strategies in qualitative research*, Wiedenfield and Nicholson.
- Gordon, M. E. & Bowlby, R. L. (1988) Propositions About Grievance Settlements: Finally, Consultation with Grievants. *Personnel Psychology*, 41, 107-123.
- Gordon, M. E. & Bowlby, R. L. (1989) Reactance and intentionality attributions as determinants of the intent to file a grievance. *Personnel Psychology*, 42, 309-329.
- Guba, E., G. & Lincoln, Y. S. (1994) Competing paradigms in qualitative research, in Denzin, N. K. & Lincoln, Y. S. (Eds.) *The Handbook of Qualitative Research*. Sage.
- Harlos, K. P. (2001) When organizational voice systems fail: more on the deaf ear syndrome and frustration effects. *Journal of Applied Behavioral Science*, 37, 324-342.

- Harlos, K. P. & Pinder, C., C. (1999) Patterns of organizational injustice: A taxonomy of what employees regard as unjust. *Advances in Qualitative Organizational Research*, 2, 97-125.
- Harris, S., G. & Sutton, R., I. (1986) Functions of parting ceremonies in dying organisations. *Academy of Management Journal*, 29, 5-30.
- Harrison, T., R. (2003) Victims, targets, protectors, and destroyers: using disputant accounts to develop a grounded taxonomy of disputant orientations. *Conflict Resolution Quarterly*, 20, 307-329.
- Hirschman, A. O. (1970) *Exit, Voice, and Loyalty : Responses to Decline in Firms, Organizations, and States.*, Cambridge, Mass. : Harvard University Press.
- Hook, C. M., Rollinson, D. J., Foot, M. & Handley, J. (1996) Supervisor and manager styles in handling discipline and grievance Part one - comparing styles in handling discipline and grievance. *Personnel Review*, 25, 20.
- Hughes, J., Roth, P. A. & Anderson, G. J. (1996) *Personal Grievances* Wellington, N.Z, Butterworths.
- Jick, T. (1983) Mixing Qualitative and Quantitative Methods: Triangulation in Action, in Van Maanen, J. (Ed.) *Qualitative Methodology*. Sage.
- Johnson, P. (1994) Analytic Induction, in Symon, G. & Cassell, C. (Eds.) *Qualitative Methods and Analysis in Organisational Research: a Practical Guide*. Sage.
- Judge, T. A. & Martocchio, J. J. (1995) The role of fairness orientation and supervisor attributions in absence disciplinary decisions. *Journal of Business and Psychology*, 10, 115-137.
- Kim, P., H, Pinkley, R., L. & Fragale, A., R. (2005) Power dynamics in negotiation. *Academy of Management Review*, 30, 799-822.
- King, N. (1994) Template Analysis, in Symon, G. & Cassell, C. (Eds.) *Qualitative Methods and Analysis in Organisational Research: a Practical Guide*. Sage.
- Kipnis, D., Schmidt, S. M. & Wilkinson, I. (1980) Intra-organisational influence tactics: explorations in getting one's way. *Journal of Applied Psychology*, 65, 440-452.
- Klaas, B., Heneman, H. G. & Olson, C. A. (1991) Effects of grievance activity on absenteeism. *Journal of Applied Psychology*, 76, 818-824.
- Klaas, B. N. (1989a) Determinants of grievance activity and the grievance system's impact on employee behavior: an integrative perspective. *Academy of Management Review*, 14, 445-457.
- Klaas, B. N. (1989b) Managerial decision making about employee grievances: the impact of the grievant's work history. *Personnel Psychology*, 42, 53-68.
- Klaas, B. N. & De Nisi, A. (1989) Managerial reactions to employee dissent: the impact of grievance activity of performance ratings. *Academy of Management Journal*, 32, 705-717.
- Klaas, B. N. & Dell'omo (1991) The determinants of disciplinary decisions: the case of employee drug use. *Personnel Psychology*, 44, 813-835.
- Klaas, B. N. & Dell'omo, G. G. (1997) Managerial use of dismissal: organizational-level determinants. *Personnel Psychology*, 50, 927-953.

- Knight, K. G. & Latreille, P. L. (2000) Discipline, dismissals and complaints to Employment Tribunals. *British Journal of Industrial Relations*, 38, 533-555.
- Labig, C. E. & Greer, C. R. (1988) Grievance initiation: a literature survey and suggestions for future research. *Journal of Labor Research*, IX, 1-27.
- Lawler, E. J. (1992) Power processes in bargaining. *The Sociological Quarterly*, 33, 17-34.
- Lawler, E. J. & Bacharach, S. (1979) Power-dependence in individual bargaining: the expected utility of influence. *Industrial and Labor Relations Review*, 32.
- Lee, T., W., Mitchell, T., R. & Sablinski, C., J. (1999) Qualitative Research in Organisational and Vocational Psychology, 1979-1999. *Journal of Vocational Behaviour*, 55, 161-187.
- Levinger, G. (1959) The development of perceptions and behaviour in newly formed social power relationships, in Cartwright, D. (Ed.) *Studies in Social Power*. Ann Arbor, Michigan, University of Michigan.
- Lewin, D. (1987) Dispute resolution in the non-union firm. *Journal of Conflict Resolution*, 31, 465-502.
- Lewin, D. (2004) Dispute resolution in the non-union organization: key empirical findings, in Estreicher, S. (Ed.) *Alternative Dispute Resolution in the Employment Arena*. Kluwer.
- Lewin, D. (2005) Unionism and employment conflict resolution: rethinking collective voice and its consequences. *Journal of Labor Research*, XXVI, 209-239.
- Lewin, D. & Boroff, K. E. (1996) The Role of Exit in Loyalty and Voice: A Conceptual and Empirical Analysis. *Advances in Industrial and Labor Relations*, 7, 69-96.
- Lewin, D. & Petersen, R. B. (1988) *The Modern Grievance Procedure in the United States*, Quorum Books.
- Lewin, D. & Petersen, R. B. (1999) Behavioral outcomes of grievance activity. *Industrial Relations*, 38, 554-576.
- Lipsky, D. B., Seeber, R. L. & Fincher, R. D. (2003) *Emerging Systems for Managing Workplace Conflict: Lessons from American Corporations for Managers and Dispute Resolution Professionals*, Jossey-Bass.
- Locke, K. (2001) *Grounded Theory in Management Research*, Sage.
- Luchak, A. A. (2003) What kind of voice do loyal employees use? *British Journal of Industrial Relations*, 41, 115-134.
- May, R., Walsh, P., Harbridge, R. & Thickett, G. (2003) Unions and Union Membership in New Zealand: Annual Review for 2002. *New Zealand Journal of Industrial Relations*, 28, 314-325.
- May, R., Walsh, P., Thickett, G. & Harbridge, R. (2001) Unions and union members in New Zealand: Annual review for 2000. *New Zealand Journal of Industrial Relations*, 26, 317-328.
- McAndrew, I. (1999) Adjudication in the Employment Tribunal: some facts and figures on caseload and representation. *New Zealand Journal of Industrial Relations*, 24, 365-382.
- McAndrew, I. (2000) Adjudication in the Employment Tribunal: some facts and figures on dismissal for misconduct. *New Zealand Journal of Industrial Relations*, 25, 303-315.

- McAndrew, I. (2001) Adjudication outcomes in the employment tribunal: some early comparisons with the employment relations authority. *New Zealand Journal of Industrial Relations*, 26, 341-348.
- McAndrew, I., Moreton, J. & Geare, A. (2004) The employment institutions, in Rasmussen, E. (Ed.) *Employment Relationships: New Zealand's Employment Relations Act*. Auckland NZ, Auckland University Press.
- Merriam, S., B (1998) *Qualitative research and case study applications in education*, Jossey-Bass.
- Miles, M. B. (1983) Qualitative data as an attractive nuisance: the problem of analysis, in Van Maanen, J. (Ed.) *Qualitative Methodology*. Sage.
- Miles, M. B. & Huberman, M., A. (1994) *Qualitative data analysis 2e*, Sage.
- Ng, I. & Dastmalchian, A. (1989) Determinants of grievance outcomes: a case study. *Industrial and labor relations review*, 42, 393-403.
- Olson-Buchanan, J. B. (1996) Voicing discontent: what happens to the grievance filer after the grievance? *Journal of Applied Psychology*, 81, 52-63.
- Olson-Buchanan, J. B. (1997) To grieve or not to grieve: factors relating to discontent in an organizational simulation. *The International Journal of Conflict Management*, 8, 132-147.
- Olson-Buchanan, J. B. & Boswell, W. R. (2002) The role of employee loyalty and formality in voicing discontent. *Journal of Applied Psychology*, 87, 1167-1174.
- Petersen, R. B. & Lewin, D. (2000) Research on unionised grievance procedures: management issues and recommendations. *Human Resource Management*, 39, 395-406.
- Pruitt, D. G. & Kim, S. H. (2004) *Social conflict: escalation, stalemate and settlement*, McGraw-Hill.
- Rasmussen, R., Hunt, V. & Lamm, F. (2006) New Zealand Employment Relations: Between Individualism and Social Democracy
Labour & Industry, 17, 19-40.
- Rollinson, D. (1992) Individual issues in industrial-relations - an examination of discipline, and an agenda for research. *Personnel Review*, 21, 46-57
- Rollinson, D., Hook, C., Foot, M. & Handley, J. (1996) Supervisor and manager styles in handling discipline and grievance Part Two - Approaches to handling discipline and grievance
Personnel Review, 25, 38.
- Secretary of Cabinet (2003) Cabinet Paper CAB (03) 365, Review of Employment Relations Act 2000: Package Overview, 8 August 2003. Cabinet Office Wellington.
- Siggelkow, N., J. (2007) Persuasion with Case Studies. *Academy of Management Journal*, 50, 20-24.
- Slaughter, M. J. (2007) Globalization and declining unionisation in the United States. *Industrial Relations*, 46, 329-346.
- Stake, R., E. (2000) Case studies, in Denzin, N. K. & Lincoln, Y. S. (Eds.) *The Handbook of Qualitative Research 2e*. Sage.
- Stake, R., E. (2006) *Multiple Case Study Analysis*, The Guilford Press.
- Strauss, A. L. (1987) *Qualitative analysis for social scientists*, Cambridge University Press.

- Suddaby, R. (2006) From the editors: what grounded theory is not. *Academy of Management Journal*, 49, 633-642.
- Sutton, R., I. & Callahan, A. L. (1987) The stigma of bankruptcy: spoiled organisational image and its management. *Academy of Management Journal*, 30, 45-436.
- Van Gramberg, B. & Teicher, J. (2005) Managing neutrality and impartiality in workplace conflict resolution: the dilemma of the HR manager. *Working Paper 57/05, Department of Management Working Paper Series*. Business and Economics, Monash University.
- Van Maanen, J. (1983) Reclaiming qualitative methods for organizational research: a preface, in Van Maanen, J. (Ed.) *Qualitative Methodology*. Sage.
- Weick, K. E. (1993) The collapse of sensemaking in organisations: the Mann Gulch disaster. *Administrative Science Quarterly*, 38, 628-652.
- Wilson, M. (2002) Mediation services proving effective: Press Release 11 November 2002
- Wilson, M. (2004) The Employment Relations Act: A framework for a fairer way, in Rasmussen, E. (Ed.) *Employment Relationships: New Zealand's Employment Relations Act*. Auckland, Auckland University Press.
- Yin, R. K. (2003) *Case Study Research: Design and Methods 3e*, Thousand Oaks, Calif. : Sage Publications.

